OPTIONAL FORM NO. 10

UNITED STATES GOVERNMENT

Memorandum

Tolson
Belmont
Mohr
Callahan
Conrad
DeLoach
Evans
Malone
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Ingram
Gandy

TO : Mr. Malone

DATE: 1/2/62

FROM : H. L. Edwards

SUBJECT: [redacted]
ATTORNEY AT LAW
CINCINNATI, OHIO
MISCELLANEOUS INFORMATION

I recently received a letter from [redacted] Cincinnati, Ohio, who is [redacted] Special Committee on Communist Tactics, Strategy and Objectives of the American Bar Association in which [redacted] enclosed the attached autostat of a letter from [redacted] who is apparently an Attorney at Law at Cincinnati, Ohio, is as the letter indicates, connected with "The movement to impeach Earl Warren."

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Of particular interest was [redacted] attack on Whitney North Seymour, immediate past president of the American Bar Association. [redacted] note attached to the letter and dated September 4, 1961, points out that readers might be puzzled as to why Seymour had associated himself with such a questionable a cause as Earl Warren's and [redacted] points out that some clue will be contained from data reflecting that Seymour was an Attorney for the International Labor Defense which was identified by former Attorney General Biddle as the "legal arm of the Communist Party." [redacted] further pointed out that Seymour was also a Director of the American-Russian Institute which was listed by the Senate Judiciary Committee as "a Communist controlled organization."

[redacted] is apparently referring to a speech made by Whitney N. Seymour at the opening of the American Bar Association assembly at the annual meeting in St. Louis, August 7, 1961, in which Seymour assailed the John Birch Society for supporting an essay contest on the subject, "Reasons for Impeaching the Chief Justice of the United States." In his speech Seymour pointed out that the Bar is duty-bound to protect the courts from unjustified attacks and that the John Birch Contest is not legitimate criticism of court decisions, but is rather "personal vilification of one occupying one of the chief offices of our government."

94-1-369-1651

Seymour's past connections are well known and his association with various questionable organizations have been the subject of separate memoranda.

ACTION: For information.

REC-72

4 JAN 4 1962

1 - Mr. Sullivan
TDW:etm (3)

Enclosure

ENCLOSURE

OPTIONAL FORM NO. 10
5010-104-02
UNITED STATES GOVERNMENT

Memorandum

TO : DIRECTOR, FBI
ATTENTION INSPECTOR H. L. EDWARDS

DATE: 1/11/62

FROM : SAC, CINCINNATI

SUBJECT: AMERICAN BAR ASSOCIATION
COMMUNISM SEMINARS

Mr. Tolson
Mr. Callahan
Mr. Conrad
Mr. DeLoach
Mr. Evans
Mr. Rosen
Mr. Sullivan
Mr. Tavel
Mr. Trotter
Tele. Room
Mr. Ingram
Miss Gandy

Attached is an excerpt from the January edition of the Newsletter put out by the Minute Women in the Cincinnati area.

The Bureau is aware that the Minute Women in this locale have extreme rightist views and the leaders of it are real agitators.

2 - Bureau (Enc. 1)
2 - Cincinnati (1 - 80-636)
(1 - 100-8557-37)

EDM:MJH
(4)

ENCLOSURE

EX-100

JAN 12 1962

REC- 115 94-1-[illegible]-1656

4 JAN 18 1962

TWO

57 JAN 26 1962

GREATER CINCINNATI CHAPTER
MINUTE WOMEN OF THE U.S.A., Inc.

JANUARY 1962

6.

ANTI-ANTI-COMMUNISM The Cincinnati Bar Association has recently been treated to a good brainwashing by a seminar on "Communism", at which Secretary of the Navy, John B. Connally, Jr. "echoed the sentiments of his Commander-in-Chief in a sharp criticism of 'political extremism' (Cin. Enquirer, 12/9/61). In view of the National Bar Association's willingness to pass a resolution, at its last meeting, supporting the repeal of the Connally Reservation, it probably wasn't very difficult to accomplish this miracle. And these men are supposed to represent the finest in logical thinking and legal knowledge in our city! Pity us!

PEACE A new organization has arrived--to "seek alternatives to what it calls the 'threat of war in the central thrust of American foreign policy'". Its name--"Turn Toward Peace." Robert Pickus, one of its two national coordinators, told a press conference on world development and world disarmament nol in Washington in April.

Mr. Pickus was formerly with the American Friends Service Committee. Interested associations include both pacifist and non-pacifist groups. The other coordinator is Sanford Gottlieb, recently released half-time from his work as political action director of the National Committee for a San Nuclear Policy. Executive members are:

Robert Gilmore, American Friends Service Committee
Bernard Bellush, American Veterans Committee
Alfred Hassler, Fellowship of Reconciliation
Paul Seabury, ADA
Norman Thomas----Chairman

U.S.A.

Nice Group---

RECOMMENDED READING

Strategic Surrender, Dan Smoot, December 11, 1961, price 25¢
This is a MUST for every Minute Woman. It is a clear statement of how our defensive weapons are being discontinued, and in what mortal peril we live. (As a matter of fact--every Minute Woman should subscribe to the Dan Smoot Report. It is a weekly publication--$10.00 a year. Address: P. O. Box 9538, Lakewood Station, Dallas 14, Texas. $3.00 for a 3-month trial subscription.)

Our First Line of Defense, Dan Smoot, Oct. 16, 1961, 25¢ This contains valuable information concerning voting records. YOU NEED THIS.

Send 5¢ to the Department of State for a copy of "Grant for the Procurement of Nuclear Research and Training Equipment and Materials." It is the agreement between the United States and Yugoslavia.

For some valuable material on Council on Foreign Relations, send $1 to the U. S. Flag Committee, P. O. Box 269, Jackson Heights 72, Long Island, N. Y.

"The Secret Government of the United States" 23 Open Letters to United States Senators. Council on American Relations, West Palm Beach, Florida. Price $1.00

If you have never read it, we recommend Chesly Manly's "The Twenty Year Revolution." It was written in 1954, but is more valuable today than then.

94-1-2-1-15

[illegible] of the absence of Speaker

January 4, 1962

SHALL IT BE LAW OR TYRANNY?

by

John Edgar Hoover, Director
Federal Bureau of Investigation
United States Department of Justice

Not long ago, Nikita Khrushchev, the world's Number One communist, toured an American exhibition in Moscow. While there, he observed some voting machines, the type used in many of our polling places. His comment was short and to the point: "I have no interest in them." (1)

In these words, Mr. Khrushchev expressed a basic tenet of communism--its detestation for our democratic concepts, for our system of free government based on the will of the people. The communists have nothing but contempt for our courts, our legal profession, our principles of jurisprudence. To them, the Communist Party is the highest law, the tribunal of ultimate appeal. Law is defined and executed by the discipline of the Party.

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Tele. Room
Ingram
Gandy

MAIL ROOM ☐ TELETYPE UNIT ☐

94-1-368

ENCLOSURE

Mr. Khrushchev's remarks, in fact, are a measure of the giant ideological struggle which engulfs the world today. Nothing less is at issue than our whole Judaic-Christian concept of government and law. The majesty of the law is the very essence of our democratic way of life. This is the grandeur, the nobility, the lifeblood of our Republic. This is why men fought at Valley Forge, at Verdun, at the Battle of the Bulge. We are a government of law, not men. William Pitt, the Great Commoner, thundered the answer years ago in the English House of Lords when he shouted, "Where law ends, tyranny begins." (2)

You, as men of the law, very literally today stand on the front lines of battle. Both as Americans and as attorneys, you have a deep and abiding responsibility to help defeat this evil assault. The battle, most truly, is one of law versus tyranny, individual liberty versus mass repression, the dignity of the human personality versus man as a slave of the state. To a large extent, America's answer must rest with the lawyers of the Nation.

The communists have long recognized the irreconcilability of law and their ultimate aims of violent revolution. Hence, their constant efforts to defame, subvert and tear down the orderly processes of law and order.

This hostility to law is reflected in the Communist Manifesto, (3) a basic document of international communism. "Your

jurisprudence," say Marx and Engels, "is but the will of your class made into a law for all, a will, whose essential character and direction are determined by the economic conditions of existence of your class."

The communists look upon democratic or bourgeois law as an instrument of class coercion, an instrumentality whereby one class maintains dominance over another. Law represents the codification which the dominant class finds necessary to maintain control. "State and law," says Andrei Y. Vyshinsky,(4) former Foreign Minister of Russia and a leading exponent of Soviet law, "emerge from the material form of life of people and have only the form of the dominant will. In other words, they represent an expression of that will. Marx... unmasks the specific illusion of jurists and politicians who imagine, on the contrary, that legislation depends on the whim of people."

Vyshinsky(5) in another passage states:

> "Marxism-Leninism gives a clear definition (the only scientific definition) of the essence of law. It teaches that legal relationships (and, consequently, law itself) are rooted in the material conditions of life, and that law is merely the will of the dominant class, elevated into a statute. It starts from the proposition that political, legal, philosophical, religious, and literary development is defined by--and is a superstructure over--economics. Law is one of the superstructures above the totality of production relationships forming society's economic structure."

The very recent authoritative Party manual, "Fundamentals of Marxism-Leninism,"[6] prepared by a group of Moscow scholars, maintains that "The obsolete ruling class...controls the state, a powerful apparatus of coercion...The dominant position of the old production relations rests on the whole apparatus of the economic, political and spiritual domination of the class in power. That is why the replacement of these relations by new ones demands not evolution but revolution...."

Hence, since communism is determined to destroy the existing society, law (as one of its coercive manifestations) must also be destroyed. This communist position is vividly illustrated by a recent writer in the Soviet magazine, Communist. "The Soviet regime," he says,[7] "has smashed and destroyed the old court system which was an instrument for the enslavement and oppression of the masses. In its place was created a new, people's court." *

*Engels wrote:[8] "The law is of course sacred in the eyes of the bourgeoisie, for it was concocted by the bourgeoisie, was passed with the approval of the bourgeoisie, and exists for the benefit and the safeguarding of the bourgeois social order. The bourgeoisie knows full well that, even if one specific law should be injurious to the individual bourgeois, the code as a whole protects the interests of the bourgeois class as a whole...To the English bourgeois the law is sacred, for he sees in it his own image and likeness, just as he sees his own image and likeness in God. That is why the policeman's truncheon (which is really his own truncheon) has so comforting an effect on his mind! But the worker fails to see this sacredness. Experience has taught him only too implacably that the law is a scourge of cords, which the bourgeoisie has plaited for him. Consequently, unless circumstances compel, the worker never appeals to the law...." (underscoring added)

Law in a communist society is not based on any belief in a Divine Creator, on a body of accepted rules distilled from the experience of men, on norms of fair play, tolerance and free speech. Law as the embodiment of the values of love, justice and truth, as a sinew of understanding among rational men, is unknown. Under communism, law becomes the coercive tool of the communist state. The objective is not impartial justice, the protection of individual liberties or the just settlement of grievances among disputants.

Under communism, the law (usually termed "socialist legality") is utilized (1) to eliminate the enemies of the communist regime and (2) to build the communist state. "Marxism teaches the necessities of using law as one of the means of the struggle for socialism--of recasting human society on socialist bases."(9) "Soviet laws...serve the great goal of the building of a communist society."(10) "The Soviet court system organizes all its work with a view to strengthening socialist legality...."(12)

Note the emphasis on the role of the "legal system" (especially the courts) as a coercive instrument for the promotion of communism. The stress is on "building" communism, strengthening "socialist legality," "promoting" the communist state, not on personal

liberties, the impartial adjudication of cases, the protection of the individual. The ultimate law in Soviet society is the Party. Under Mr. Khrushchev, the "legal system" of the Soviet Union has reflected a number of changes, but there has been no deviation from the basic objective and underlying motive of that system as it prevailed under Lenin and Stalin. The communist "legal system" still exists primarily for the benefit of the state, rather than for the rights of the individual. Any communist talk about protecting individual liberties (which the communists claim they do) is mere window dressing. Communism and individual rights cannot coexist.

Hence, the communists cannot tolerate the existence of an independent judiciary, independent-thinking lawyers, free bar associations or law enforcement agencies dedicated to gathering the truth. William Z. Foster, former Chairman Emeritus of the Communist Party, USA, who recently died in Moscow, made quite clear the communist opinion toward lawyers. In a communist society, Mr. Foster wrote, "The pest of lawyers will be abolished."(13) Why have lawyers, when there are no rights to defend? *

*Very interestingly, according to a December, 1961, news dispatch, lawyers in Poland are being told to forget about defending clients and instead promote communism. This dispatch indicates that the President of the Polish Supreme Court had recommended that private law practice in the country be abolished. Lawyers should be "collectivized" and made subject to severe disciplinary controls. The purpose of these "reforms"? "To fit the Polish bar for work in a socialist state." "A Polish lawyer," the dispatch stated, "should be an active co-author of state justice in Poland, and... the state should have considerable influence over the bar association, including the right of a ministerial veto in bar elections." Very encouragingly, the news item added that an influential section of the Polish bar opposes the "reforms." (16)

The mark of a "good" lawyer or a "good" judge then becomes a matter of being a "good" Marxist. M. I. Kalinin, former President of the Soviet Union, is quoted very approvingly by an author in Mr. Khrushchev's Russia as saying: (14)

> "If a judge is a good Marxist, an experienced practical worker, a cultured and sufficiently educated person, we may say with confidence that 99% of his verdicts and decisions will have political significance, and will be one of the best forms of propaganda of the Soviet laws and of the directives of the Party."
>
> "A judge who is a poor Marxist, unfamiliar with Party resolutions, unable to fight for Party decisions with sufficient vigor...such a judge is unfit."

Hence, members of the judicial system become "political hacks," decisions are motivated by the partisan interests of the state and justice as we know it is completely perverted. Yet the communists have the audacity to proclaim that "socialist legality" is more meaningful than democratic or bourgeois justice: (15)

> "Presumption of innocence," one communist writer states, "has likewise been proclaimed in the 'Declaration of Rights of Man and Citizen,' in 1789, after the victory of the bourgeois revolution in France. In its time it has played a positive role in bourgeois legal procedure. This presumption is acknowledged still in theoretical research works of some bourgeois authors and even sometimes is formulated in the laws, but often is in a glaring contradiction with the bourgeois legal practice."

Now listen to this:

> "In the USSR, presumption of innocence is not a fiction, but an expression of legality in criminal legal procedure and a guarantee of objective and thorough examination of the case."

The communists utilize the freedoms guaranteed by our form of government as a cloak to mask their assaults on democratic concepts of law and order. They feign the highest solicitude for "civil liberties," "the dignity of the law," "constitutional rights." They pose as martyrs* in the "battle" to "maintain" the inviolability of personal liberties--liberties which they would not permit if they were in state power.

The assault against the FBI and law enforcement agencies, for example, has been particularly brutal. We have been accused of virtually everything imaginable--"violating civil liberties," "brutality," "thought control," "forgery." "F.B.I.'s tactics...cheap, vulgar, intimidating, blackmailing...." (17) "F.B.I. is...an international police conspiracy...." (18) The communist attack against the FBI never ends.

* The Communist Party even goes so far as to represent itself as a legitimate American institution whose roots go back to the days of the Civil War! In "An Open Letter to the American People" issued by the National Committee of the Communist Party, USA, (1961) this statement is made: "The Communist Party will defend its right to a legal existence under the Constitution and the Bill of Rights as a legitimate current in American political life, a movement that can trace its existence back a full century into our history, from the Communists who supported Lincoln and the Union through the old Socialist Party." (19)

These false and slanderous diatribes are designed (1) to weaken public confidence in our democratic system, (2) to create fear and hatred on the part of Party members against the FBI and American legal institutions and (3) to pursue the class struggle for the promotion of communism.

A major aim of the communists, in their assaults on law and order, is to convince noncommunists that the entire fabric of our constitutional government is rapidly deteriorating. The communists, as part of their tactics, proclaim that laws directed against the Party are also aimed at noncommunist groups, "...the attack against Communists is but the prelude to destroying the liberty and freedom of all."(20) At the present time the Communist Party is openly defying the decision of the Supreme Court on the Internal Security Act of 1950. The Party's National Committee has proclaimed very falsely: "It is not for ourselves alone that we speak...in nation after nation the destruction of the democratic rights of all began with the attack 'only' on the Communists...The bell tolls not for the Communists alone but for the hard-won rights of all Americans. (21)

The idea here is to convince noncommunists that American liberties are being garrotted--and they should do something about it (that is, actively support the communists in their attack on

law and order). "All must act together to save American constitutional liberties. Speak up! Speak up today as an individual or through your organization."[22] What happens: communist-sponsored resolutions, letter-writing campaigns, mass rallies, pamphlets and books, demonstrations, front groups. The point here is how the Party, through propaganda and agitation, is frequently able to secure the support of noncommunists in its campaign of vilification of our judicial processes. Never do the communists admit that they have enjoyed all the privileges of our legal system (which are available to all) or that their true aim is the total smashing of the very laws they so hypocritically profess to uphold. Sow seeds of doubt concerning the validity of our democratic institutions--that is part of their tactics.

Denunciation of American legal institutions, moreover, helpsinculcate a fear, hatred and contempt of our government among Party members. These individuals are taught that the FBI, local and state police, and other agencies of bourgeois society (including private lawyers and bar associations) are "enemies." "FBI Agents," one Party document stated,[23] "should be viewed with...hatred and contempt... People should refuse to have anything to do with the FBI or in any way to cooperate with it. They should refuse to talk to them, to answer their questions, to voluntarily admit them to their homes or to enter their

cars or go to their headquarters." Such instructions help create the type of revolutionary Lenin had in mind when he said: "When we have companies of specially trained worker revolutionaries who have passed through a long course of schooling... no police in the world will be able to cope with them...."[24] To the Party, the inculcation of hatred toward "bourgeois institutions" among their members is absolutely essential.

Then the communist assault against our judicial processes enables the Party to pursue the class struggle, that is, to create conditions favorable for future revolutionary action. The Party, time after time, actively seeks cases involving arrests, trials and convictions for the specific purpose of creating "agitation situations," designed to promote the Party's special interests. The Party falsely charges "illegal arrests," "trumped-up" evidence, "phoney justice"--not that the Party is legitimately interested in the welfare of the person concerned, but because these cases might possess elements which can be exploited for the Party's benefit. These "emergencies" are exploited to recruit new members, create fronts, further Party discipline, make contacts with noncommunists. Notice how the Party always screams in these situations for money (a defense fund), for more money (a publicity fund), for still more

money (an emergency fund). To the communists, attack against our judicial institutions is an essential ingredient in the Party's day-to-day program of revolutionary class struggle.

The Communist Party has every right to legitimate legal counsel. It has every right to all the legal processes available to men and women in our free society. However, this does not mean a communist abuse of our legal institutions. It does not mean allowing communists the freedom to rip asunder the integrity of our courts, to turn legal trials into demonstrations, to make the law inoperable in cases in which they have a partisan interest. In the past some lawyers have gone beyond their oaths of office as officers of the court, resorting in cases involving communists to disruptive courtroom tactics, vilification of the judge and contempt for the orderly processes of judicial behavior. The courts must enforce respect from its officers.

Actually the Communist Party has been able to recruit only a very few attorneys. Support of the aims of communism and faithfulness to the law of our land are irreconcilable. A few lawyers are assisting the Party through front groups--which, though allegedly espousing legitimate aims, actually are transmission belts of communism to the masses. These groups are not interested in legitimate social reforms, but advancing the Party's line. Particularly reprehensible is advice from attorneys which would enable the Party to impugn the

integrity of the laws of the land. As long as a few members of the legal profession, wittingly or unwittingly, serve these ends, the communists will be the gainers.

An analysis of communist tactics in undermining the laws of our land should give us an insight into how to cope with this danger. The answer must be an increased reliance on law, a renewed faith in the democratic processes of government. Just because the communists have no respect for law and order does not mean that we should retaliate in kind. Cries for legal shortcuts, vigilante methods and less reliance on legal processes, though based on the most patriotic of motives, are most shortsighted. These would undermine our cause. May I quote from a most distinguished American jurist, a gentleman who has had first-hand experience with communists in his courtroom. Speaking in November, 1956, before the graduating class of the FBI National Academy in Washington, D. C., Judge Harold R. Medina said: (25)

> "...I would have you always conscious of the fact that your first duty, above all others, is to maintain the integrity of our laws and our freedoms. No convictions based upon some violation of these laws or constitutional rights can possibly benefit our Nation in the long run."

Judge Medina then continued:

> "What I wish to leave with you today is that all these and others are rights of an accused which come to us because men fought and

struggled for freedom. Once lost these precious freedoms are most difficult to regain; once whittled away or disregarded and neglected, they cease to be realities and vanish into thin air. You men stand at the first line of defense; and I would have you be constantly mindful of your trust."

Our fight against communism must be a sane, rational understanding of the facts. Emotional outbursts, extravagant name calling, gross exaggerations hinder our efforts. We must remember that many noncommunists may legitimately on their own oppose the same laws or take positions on issues of the day which are also held by the communists. Their opinions--though temporarily coinciding with the Party line--do not make them communists. Not at all. We must be very careful with our facts and not brand as a communist any individual whose opinion may be different from our own. Freedom of dissent is a great heritage of America which we must treasure.

Today far too many self-styled experts on communism are plying the highways of America giving erroneous and distorted information. This causes hysteria, false alarms, misplaced apprehension by many of our citizens. We need enlightenment about communism--but this information must be factual, accurate and not tailored to echo personal idiosyncrasies. To quote an old aphorism, we need more light and less heat.

I should like to congratulate the American Bar Association for its excellent work in this field. Many years ago the ABA recognized the seriousness of the communist danger. Your Special Committee on Communist Tactics, Strategy and Objectives is doing a magnificent job. This Committee's plan, already being implemented, of fostering high-level, dignified, objective seminars on communism through the cooperation of local Bar Associations throughout the country is excellent. This Committee, moreover, is encouraging a study of the contrasts between communism and free government in our secondary and college-level schools. I feel that the American Bar Association is rendering a distinct public service and should receive the commendation of grateful citizens all over the country.

The majesty of the law, in today's world, is not just a figure of speech or a rhetorical flourish. It is the diadem of American freedom, the reality which distinguishes us from tyranny. It is our heritage, our refuge, our glory.

"Let the ruling classes tremble at the prospect of a communist revolution," proclaimed the Communist Manifesto. We tremble not. The ideas of Marx and Engels, though tipped with

deceit and chicanery, shall not dislodge the goddess of justice--that Eternal Lady who rules our destiny as a Nation under God.

DOCUMENTATION FOR ARTICLE ENTITLED
"SHALL IT BE LAW OR TYRANNY?"

1. Washington Post, 7-25-59.

2. "A New Dictionary of Quotations," selected and edited by H. L. Mencken, New York, 1942.

3. From edition published by Charles H. Kerr and Company, Chicago, p. 35. (Bureau Library, HX, 276, M392 (3))

4. "The Law of the Soviet State," by Andrei Y. Vyshinsky, pg. 14-15.

5. Ibid, pg. 13.

6. [redacted], pg. 198.

7. Kommunist, May, 1956, article entitled "Soviet Justice and Its Role in Strengthening of Legality."

ENCLOSURE
94-1-269-1

8. From **Marxist Library**, Volume III, "**The Communist Manifesto of Karl Marx and Friedrick Engels**," with an introduction and explanatory notes by D. Ryazanoff, pg. 129-130. (This quote originally from Engels' "The Condition of the Working-Class in England in 1844.")

9. Vyshinsky, op. cit., pg. 50.

10. Kommunist, see footnote #7.

(#11-OMIT)

12. Ibid.

13. "Masters of Deceit," pg. 7.

14. Kommunist, see footnote # 7.

15. Ibid.

16. Reuters news dispatch, published in the 12-7-61 issue of the Washington Post, from Warsaw.

17. From Central Research Monograph, "Communist Party, USA, Attacks on Law Enforcement," Section IV, "Attacks on the FBI," pg. iii. (100-3-95-251)

18. Ibid, pg. iv.

19. Political Affairs, July, 1961, pg. 3.

20. Central Research Monograph, pg. iii. (See footnote # 17 above.)

21. Same as footnote # 19, pg. 4.

22. Ibid, pg. 4-5.

23. 100-3-95-224, pg. 4 from Party document entitled "The F.B.I. vs. The Bill of Rights."

24. Lenin on Organization, pg. 95-96, (Volume One, Lenin Library).

25. FBI Law Enforcement Bulletin, February, 1957, pg. 23.

26. Last paragraph of Communist Manifesto.

OPTIONAL FORM NO. 10

UNITED STAT

Memor

Tolson
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Gandy

TO : Mr. Malone

DATE: 1/12/62

FROM : H. L. Edwards

SUBJECT: DIRECTOR'S ARTICLE ON COMMUNISM FOR PUBLICATION IN AMERICAN BAR ASSOCIATION JOURNAL

On 1/5/62 the Director's article on Communism for publication in the February 1962 issue of the American Bar Association Journal was made available to [redacted] Assistant to the Editor in Chief, in the absence of Richard Bentley, Editor in Chief. This was done by personal delivery through the Chicago Office. I called [redacted] earlier on 1/5/62 to alert her to the fact that the article was coming. She requested a glossy photograph of the Director for possible use which was separately forwarded by the Crime Records Division. [redacted] indicated that they hoped to publish the Director's article as the No. 1 feature article in the February issue.

The Chicago Office was instructed to keep alert to any reaction [redacted] might have to the article and on 1/12/62 SAC Gale reported that from a preliminary review of the article, [redacted] was most favorably impressed with the Director's comments that the communists had nothing but contempt for lawyers and that in a communist society where there were no individual rights there would be no need of lawyers. She also stated that all of the Bureau's submissions she has seen were extremely neat and needed no editing for which reason it was always a genuine pleasure to receive submissions from the Director.

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[redacted] has always had the greatest respect and admiration for Mr. Hoover. She said Editor Bentley would undoubtedly acknowledge receipt of the article on his return to the office and express his appreciation in a letter to the Director.

I wish to record the fact that in my opinion an excellent job was done on this article and I am especially appreciative of the fact that the Crime Records Division was able to coordinate the work and take the necessary action to get final approval of the article and meet the short deadline.

RECOMMENDATION: Information.

REC-41 94-1-369-1660

1 - Mr. DeLoach
1 - Mr. Sullivan

JAN 19 1962

EX. 102

HLE:ejw
(4)

63 JAN 22 1962

OPTIONAL FORM NO. 10

UNITED STATES GOVERNMENT

Memorandum

Tolson
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TO : Mr. Malone

DATE: 1/11/62

FROM : H. L. Edwards

SUBJECT: AMERICAN BAR ASSOCIATION (ABA)
SPECIAL COMMITTEE ON COMMUNIST TACTICS,
STRATEGY AND OBJECTIVES

As you are aware, [redacted] Cincinnati, Ohio, [redacted] above captioned committee, held a very successful seminar on the menace of communism in Cincinnati, Ohio in December, 1961. At this seminar [redacted] distributed kits of printed material for all those in attendance. Included in this kit were the following reprints furnished by the Crime Records Division: "A View of Reality"; "Communist Illusion and Democratic Reality"; "Internal Security (April 17, 1961)"; "Communist Party, USA"; "Forward from FBI Law Enforcement Bulletin dated March 1, 1960, captioned "An Analysis of the 17th National Conference of the Communist Party, USA"; "One Nation's Response to Communism"; "The Communist Menace: Red Goals and Christian Ideals."

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Also included in the kit was a pamphlet of "The Communist Party Line" published by the Committee on the Judiciary, United States Senate and a pamphlet entitled "Expose of Soviet Espionage, May, 1960" prepared by the Bureau and published by the Committee on the Judiciary, United States Senate.

[redacted] advised that these reprints in the kit were so well received that he had hopes of being able to use them at his next communist seminar which will be held in St. Louis, Missouri during the latter part of January, 1962. [redacted] advised that he had on hand sufficient copies for the expected attendance at the St. Louis seminar. [redacted] stated that he hoped there would be no objections to using this Bureau material in St. Louis.

Bearing in mind that these reprints will be distributed to lawyers and other professional men in attendance at these seminars, it would certainly appear that they will be placed in the hands of individuals who are prominent in their community and would be of aid in the fight against communism. Careful consideration of this distribution does not indicate that there would be any reason for not allowing [redacted] to pass out these reprints in his kit to those in attendance at these seminars, which are jointly sponsored by his committee and the local bar association in the communities where the seminars are held. It should be noted that Assistant Director DeLoach will serve as a panelist at the St. Louis seminar.

1 - Mr. DeLoach
1 - Mr. Sullivan

REC- 9

TDW:mvd
(4)

57 JAN 26 1962

JAN 19 1962

Memo to Mr. Malone
RE: AMERICAN BAR ASSOCIATION
SPECIAL COMMITTEE ON COMMUNIST TACTICS,
STRATEGY AND OBJECTIVES

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RECOMMENDATIONS:

That [redacted] be allowed to distribute reprints of the above listed material at the St. Louis seminar and in the event that he should need more of these reprints that such will be furnished to him upon request by the Crime Records Division. Should Crime Records find that there are any additional reprints which should be added to [redacted] kit they should make same available to [redacted]

AMERIC[illegible] ASSOCIATION JRNAL
1155 EAST 60TH STREET ○ HYde Park 3-0533 ○ CHICAGO 37, ILLINOIS

Mr. Tolson
Mr. Belmont
Mr. Mohr
Mr. Callahan
Mr. Conrad
Mr. DeLoach
Mr. Evans
Mr. Malone
Mr. Rosen
Mr. Sullivan
Mr. Tavel
Mr. Trotter
Tele. Room
Mr. Ingram
Miss Gandy

b6
b7C

10 January 1962

American Bar Association Journal
L. Editors

Mr. J. Edgar Hoover
Director, Department of Justice
Washington 25, D. C.

Dear Mr. Hoover:

Your article "Shall It Be Law or Tyranny?" was received here on 5 January 1962.

On behalf of the Board of Editors, I am pleased to advise you that we shall be glad to publish this article as soon as possible - probably in our February issue.

The article itself deals with a subject of the greatest timeliness and urgency. I had been hoping that we might have an article on the subject and I feel we are fortunate to have this article written by one so uniquely qualified. So you can see how happy I am to receive your article.

Very sincerely yours,

Richard Bentley

Richard Bentley
Editor-in-Chief

RB:ms

Ill.
of Subject Publication

1/16/62
No Ack Necessary

EX-108 94-1-369-1665

REC. 9 JAN 19 1962

51 JAN 25 1962

JAN 12 1962

OPTIONAL FORM NO. 10

UNITED STATES GOVERNMENT

Memorandum

Tolson
Belmont
Callahan
Conrad
DeLoach
Evans
Malone
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Ingram
Gandy

TO : Mr. Malone

DATE: January 10, 1962

FROM : H. L. Edwards

b6
b7C

SUBJECT: AMERICAN BAR ASSOCIATION (ABA)
MIDYEAR MEETING, CHICAGO, ILLINOIS
2/14 - 20/62

The ABA will hold its midyear meeting at Chicago, Illinois, February 14 - 20, 1962. This is a major meeting and the program will include meetings by each of the Sections and all of the Standing and Special Committees. The House of Delegates will also be in continuous session throughout the meeting.

This meeting is of particular importance in that the House of Delegates will elect the president-elect and act on the reports of the various Sections and Committees. It will be necessary to have Bureau coverage for all the sessions of the House of Delegates. There are also a number of committee meetings planned for the Criminal Law Section and the Family Law Section where there will be no admittance to non-members.

As has been done for the past several years, I believe that both the alternate Bureau liaison representative, SA Supervisor [redacted] and I should attend this meeting to properly discharge our liaison responsibilities and protect the Bureau's interests. It is not possible for me to cover all the activities at the meeting and I will not be able to utilize Chicago agents because Section and Committee membership are essential to be admitted to some of the meetings that must be covered. b6 b7C b7D

One of the additional objectives to be achieved at this midyear meeting is that I want to evaluate and instruct SA [redacted] of the Chicago Division on his duties and objectives as the Bureau's local liaison with the ABA in Chicago. It should be noted that [redacted] has only recently been approved to handle this local liaison responsibility. There will also be some important meetings of the Special Committee on Communist Tactics, Strategy and Objectives held in Chicago and the [redacted] has already indicated that he will be relying heavily on Bureau guidance and advice at this meeting.

It should be pointed out that while the midyear meeting is smaller in attendance than the annual ABA meeting, there will be approximately 1,000 persons in attendance and this meeting is devoted primarily to business activities. It provides the Bureau's representatives a better opportunity for contact with the ABA staff and key officers than does the annual meeting where attendance is approximately 15,000.

HLE:ejw:hcv
(2)

REC- 13 94-1-369-1663

EX-115

5 JAN 24 1962

NOTED

Memorandum to Mr. Mohr
Re: American Bar Association (ABA)
Midyear Meeting, Chicago, Illinois
2/14 - 20/62

RECOMMENDATION:

That approval be given for Inspector H. L. Edwards and SA Supervisor [redacted] to attend the ABA Midyear Meeting at Chicago, Illinois, February 14 - 20, 1962.

b6
b7C

OPTIONAL FORM NO. 10

UNITED STATES GOVERNMENT

Memorandum

Tolson
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Evans
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Sullivan
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Trotter
Tele. Room
Ingram
Gandy

TO : Mr. DeLoach

DATE: 1-19-62

FROM : M. A. Jones

SUBJECT: COMMUNIST-INFILTRATED AND COMMUNIST FRONT ORGANIZATIONS; AMERICAN BAR ASSOCIATION SPEECH IN ST. LOUIS, MO JANUARY 26, 1962

Page 17 of the proposed remarks for your use at the Seminar on Communism of the American Bar Association in St. Louis next week contained the following statement: "Today, the FBI is investigating some 200 known or suspected communist-infiltrated and communist front organizations."

You have inquired concerning the source for this statement.

The above statement is based upon the Director's testimony before the House Subcommittee on Appropriations on March 6, 1961. Page 49 of the printed testimony states, "Some 200 known, or suspected, communist front and communist-infiltrated organizations are now under investigation by the FBI."

This figure has appeared in other speech material for you use during the past year.

It has been determined that the new material prepared for the Director's use before the Appropriations Subcommittee in the near future contains a statement that we are investigating "approximately 185" known or suspected communist-infiltrated and communist front organizations. Accordingly, page 17 of your American Bar Association speech is being changed to reflect the new figure of "approximately 185."

RECOMMENDATION:

For information.

EX-105 REC-66 94-1-369-1664

25 JAN 24 1962

58 JAN 30 1962

GWG:par (4)

We should have checked before sending the speech through - EHD 1/19

CRIME RESEARCH

OPTIONAL FORM NO. 10
5010-104-02
UNITED STATES GOVERNMENT

Memorandum

TO : DIRECTOR, FBI
Attention Research (Crime Records)

DATE: 1/17/62

FROM : SAC, PHILADELPHIA

SUBJECT: ~~FEDERAL~~ American BAR ASSOCIATION

Remylet 1/16/62 advising that the Director was to be invited to join the Law Observance (Law Day) Committee of the FBA on a national level. Relet stated that a list of the FBA Chapters was being furnished. The Chapters are located as follows:

Anchorage (Anchorage, Alaska)
Antilles (San Juan, Puerto Rico)
Atlanta (Atlanta, Georgia)
Baltimore (Baltimore, Maryland)
Bay State (Boston, Mass.)
Central New Jersey (Trenton, N. J.)
Chicago (Chicago, Illinois)
Cincinnati (Cincinnati, Ohio)
Cleveland (Cleveland, Ohio)
Colorado Springs (Colorado Springs, Colorado)
Columbus (Columbus, Ohio)
Dallas (Dallas, Texas)
Dayton (Dayton, Ohio)
Denver (Denver, Colo.)
Detroit (Detroit, Mich.)
District of Columbia (Washington, D. C.)
Empire State (New York City)
Explorer (Huntsville, Alabama)
Fort Worth (Fort Worth, Texas)
Houston (Houston, Texas)
Indianapolis (Indianapolis, Indiana)
Kansas City (Kansas City, Missouri)
Little Rock (Little Rock, Arkansas)
Los Angeles (Los Angeles, Calif.)
Louisville (Louisville, Kentucky)
Memphis (Memphis, Tenn.)
Milwaukee (Milwaukee, Wis.)

REC-135 94-1-369-1665
29
EX 101 18 JAN 18 1962

2 - Bu
1 - Ph 80-513
NSH:ec
(3)

3 FEB 1 1962

Ph File 80-513

Mobile Area (Theodore, Alabama)
New Mexico (Los Alamos, N. M.)
New Orleans (New Orleans, La.)
Oakland (Alameda, California)
Omaha (Omaha, Nebraska)
Oregon (Portland, Oregon)
Paris (France)
Pentagon (Washington, D. C.)
Philadelphia (Philadelphia, Pa.)
Pittsburgh (Pittsburgh, Pa.)
Rhode Island (city not furnished - Chapter may be inactive)
Richmond (Richmond, Va.)
St. Louis (St. Louis, Missouri)
San Diego (San Diego, Calif.)
San Francisco (San Francisco, Calif.)
Savannah (Savannah, Georgia)
Seattle (Seattle, Wash.)
South Florida (Miami, Florida)
Tacoma-Olympia (Tacoma,Wash.)
Tidewater Virginia (Norfolk, Virginia)
Utah (Salt Lake City, Utah)
Wiesbaden (Germany)

OPTIONAL FORM NO. 10

UNITED STATES GOVERNMENT

Memorandum

Tolson
Belmont
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DeLoach
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Tavel
Trotter
Tele. Room
Ingram
Gandy

TO : Mr. DeLoach DATE: 1-18-62

FROM : M. A. Jones

SUBJECT: AMERICAN BAR ASSOCIATION (ABA) SPECIAL COMMITTEE ON COMMUNIST TACTICS, STRATEGY AND OBJECTIVES SEMINAR ON COMMUNISM ST. LOUIS, MISSOURI, JANUARY 26, 1962

[redacted]

[redacted] above-captioned committee, has been in contact with Inspector H. L. Edwards regarding the possibility of the Director preparing a short statement to be read to the Seminar on Communism scheduled to be held January 26, 1962, in St. Louis, Missouri. You will recall that the Director prepared a statement for a similar seminar held last fall in Cincinnati, Ohio. This statement was exceptionally well received and received a wide distribution in the press.

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Attached please find a statement for use at the St. Louis Seminar. It has been approved by [redacted] of the Department.

RECOMMENDATION:

REC- 69 94-1-369-1666

Upon approval, this statement be forwarded to Inspector H. L. Edwards for transmittal to [redacted]

JAN 26 1962

Enclosure (sent 1/23)

ENCLOSURE

1 - Mr. Edwards
1 - Miss Gandy
1 - Mr. Sullivan

XEROX JAN 30 1962

FCS:tmf
(6)

cc destroyed 11-9-62

forwarded enclosed statement 1/23/62

[redacted]

CRIME RESEARCH

50 FEB 5 1962

January 22, 1962

The seminar on the dangers of communism being held in St. Louis, Missouri, on January 26, 1962, by the Special Committee on Communist Tactics, Strategy and Objectives of the American Bar Association is another commendable undertaking by this Committee. The excellent response to its previous seminar held in Cincinnati, Ohio, is indicative of the positive work which can be accomplished by a genuine study of the tactics of the communist enemy.

The communists have nothing but contempt for the law. They regard our legal system as a barrier to their efforts to overthrow our society. They consider lawyers, bar associations and legal groups as key segments of the "opposition" which must be subverted, defamed and liquidated. Hence, their constant and never-ending attack against our judicial system and the liberties it symbolizes.

1 - Mr. Edwards 1 - Mr. Sullivan
1 - Miss Gandy 94-7-369-

NOTE: See Jones to DeLoach memo of 1-18-62 captioned "American Bar Association, Special Committee on Communist Tactics, Strategy and Objectives, Seminar on Communism, St. Louis, Missouri, 1-26-62."

FCS:tmf
(8)

ENCLOSURE

Tolson
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Trotter
Tele. Room
Ingram
Gandy

MAIL ROOM ☐ TELETYPE UNIT ☐

You, as lawyers, are in a position to be of great guidance to the American people in the fight against this enemy. This seminar is an important part of your contribution. We must at all times maintain the utmost respect for the law of the land. Never must we sully its honor by advocating legal "short-cuts" or vigilante methods. These are not in the American tradition and are injurious to our democratic cause.

May I extend my best wishes for a successful meeting.

John Edgar Hoover
Director

OPTIONAL FORM NO. 10

UNITED STATES GOVERNMENT

Memorandum

Tolson
Belmont
Mohr
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DeLoach
Evans
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Rosen
Sullivan
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Trotter
Tele. Room
Ingram
Gandy

TO : Mr. Mohr

DATE: 1/17/62

FROM : J. F. Malone

SUBJECT: AMERICAN BAR ASSOCIATION (ABA)
SPECIAL COMMITTEE ON COMMUNIST
TACTICS, STRATEGY AND OBJECTIVES
SEMINAR ON COMMUNISM
ST. LOUIS, MISSOURI, JANUARY 26, 1962

As you are aware, [redacted] above-captioned committee, is holding a seminar on the menace of communism at St. Louis, Missouri, on 1/26/62. This seminar is co-sponsored by the ABA and the local St. Louis Bar Association. Assistant Director DeLoach has been designated to serve as a panelist at this seminar.

During the early part of December, 1961, a similar seminar was held by [redacted] at Cincinnati, Ohio. The Director consented to furnishing a statement which was dated 11/28/61, to be used by [redacted] committee at the Cincinnati seminar. A copy of the Director's statement is attached. The statement was a congratulatory message to the Committee on Communist Tactics, Strategy and Objectives on the occasion of its first seminar on the danger of communism. The Director's statement was read to those in attendance and received widespread publication by news media in the Cincinnati area.

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[redacted] felt that a statement by the Director would be a great asset in making the St. Louis seminar successful.

RECOMMENDATION:

EX 100 REC- 69 94-1-369-1667

That Crime Records prepare a similar statement to the one attached which would be suitable for publication at the St. Louis seminar.

9 JAN 26 1962

UNRECORDED FILED IN

statement prepared 1-22-62 FCS

Jones to DeLoach memo 1-18-62 FCS

CRIME RESEARCH

1 - Mr. DeLoach
1 - Mr. Sullivan

Enclosure

TDW:mlw:epx
(4)

XEROX JAN 30 1962

50 FEB 5 1962

January 30, 1962

Honorable [redacted]
727 Union Central Building
Cincinnati 2, Ohio

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b7D

My dear [redacted]:

Assistant Director C. D. DeLoach immediately upon his return to Washington advised me of the outstanding courtesies afforded him while attending your recent Bar Association seminar in St. Louis. He also informed me of your commendatory remarks in connection with my message to the Bar Association at the banquet on the night of January 26, 1962.

I wanted to thank you for your kind remarks and to express my personal appreciation for your many generous references concerning the work of the FBI. Mr. DeLoach advised me that the seminar was a great success, and I am certain that your fine work is directly attributable to the recognition given the seminar.

Sincerely yours,

J. Edgar Hoover

1 - Mr. H. L. Edwards (sent with cover memo)
1 - Mr. Jones (sent with cover memo)
1 - Mr. Morrell (sent with cover memo)

NOTE: See DeLoach to Mohr memo 1-29-62 captioned "American Bar Association Seminar on Communism, St. Louis, Missouri, 1-26-62." CDD:geg

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Ingram

CDD:geg
(6)

REC- 13 94-1-3681

51 FEB 5 1962

57 FEB 16 1962

OPTIONAL FORM NO. 10

UNITED STATES GOVERNMENT

Memorandum

Tolson
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Trotter
Tele. Room
Ingram
Gandy

TO : Mr. Mohr

DATE: 1-29-62

FROM : C. D. DeLoach

SUBJECT: AMERICAN BAR ASSOCIATION
SEMINAR ON COMMUNISM
ST. LOUIS, MISSOURI
1-26-62

Pursuant to instructions, I spoke before approximately 200 members of the Missouri State Bar and various officials of the Bar Association from other states on 1-26-62 at the Sheraton Jefferson Hotel in St. Louis, Missouri. There also were present a number of educators from various localities in the State of Missouri.

[redacted] Bar Association's Special Committee on Communist Strategy and Tactics served as a moderator of this seminar. [redacted] is a good friend of ours, is very respectful when speaking of the Director and personnel of the FBI and obviously goes out of his way to do things for us. At the same time, he is blunt, very undiplomatic and incurs enemies very rapidly. There was considerable bitterness between members of the Missouri Bar [redacted] who also is very friendly, was present and obviously did considerable gossiping against members of the Missouri Bar. There appeared to be a "tug of war" going on between [redacted] President of the Missouri Bar Association, and [redacted] as to who would officiate at the seminar, who would handle public relations and many other items of an administrative nature. I mention this briefly merely for the purpose of stating that in future instances in which seminars are held, we should be careful to warn our SACs of [redacted] proclivities. [redacted] naturally leans heavily on the Bureau and in each city he visits, he will undoubtedly call upon our SACs for assistance. We, of course, should not get in the middle between [redacted] and the local people.

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There were five speakers at this seminar [redacted] an official of the U. S. Information Agency, did his usual good job. [redacted] of the Richardson Foundation made an excellent talk and was quite commendatory concerning the FBI. The Assistant Secretary of State, Alexis U. Johnson, and Carlisle P. Runge, the Assistant Secretary of Defense, both spoke, however, proved to be very poor speakers. [redacted] confided to me that the FBI representative was the only person that did not receive a check for $250 in connection with the speeches given. Transportation expenses were also paid to [redacted] It is my understanding that [redacted] takes annual leave from the U. S. Information Agency in making these talks. He apparently does this to somewhat legitimatize his acceptance of funds.

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(CONTINUED NEXT PAGE)

Enclosure sent 1-30-62
1 - Mr. H. L. Edwards
1 - Mr. Jones
1 - Mr. Morrell
CDD:geg
(5)

REC-14 94-1-1-369 1669

63 FEB 7 1962

5 FEB 1 1962

DeLoach to Mohr memo
Re: American Bar Association
Seminar on Communism
St. Louis, Missouri
1-26-62

We received an excellent press as a result of FBI participation and also had the opportunity of appearing on television briefly in connection with our work at this seminar.

I heard many fine comments concerning the work by Assistant Director Sullivan and Special Agent Supervisor [redacted] regarding speeches they have given previously at seminars.

The Director's message which was prepared at the specific request of [redacted] was read at the Bar Association banquet held on the night of 1-26-62. [redacted] became very emotional in reading the message and indicated at the conclusion, "This message was written by one of the greatest men in America today." He went on at some length to praise the Director.

While in St. Louis, I had the opportunity of visiting with four National Academy graduates, a number of heads of law enforcement and several newspaper officials (with the exception of the "St. Louis Post Dispatch."). b6 b7C b7D

As a matter of record, all speeches made at the above seminar were filmed by one of the local television stations at the specific request of [redacted] It is understood that he paid $1500 for this service. No prior notice was given in connection with the filming of these speeches. [redacted] told me that he plans to use certain portions of these films in the future in the conducting of seminars for rural areas at which time members of the Bar in those areas will attend.

ACTION:

The Director may desire to send the attached letter to [redacted]

OPTIONAL FORM NO. 10
5010-104

UNITED STATES GOVERNMENT

Memorandum

TO : DIRECTOR, FBI

DATE: 1/30/62

FROM : SAC, RICHMOND (94-390) - P -

SUBJECT: AMERICAN BAR ASSOCIATION (ABA)
SPECIAL COMMITTEE ON COMMUNIST
TACTICS, STRATEGY, AND OBJECTIVES

94-1-369-1621

Re Richmond letter to the Bureau dated 11/17/61.

No additional information has been developed concerning the captioned matter. Any data received will be furnished to the Bureau.

2 - Bureau
1 - Richmond

CFH/ncm
(3)

REC 104

94-1-369-1670

25 FEB 1 1962

5 1 FEB 7 1962

INDEXED

SAC, Chicago (80-355) 1/31/62

Director, FBI

94-1-369-1601

REC- 19

[redacted]
DIRECTOR OF ACTIVITIES
AMERICAN BAR ASSOCIATION

Reurlet dated January 24, 1962, in which it was recommended that copies of pertinent speeches relative to the topic of communism be sent to [redacted]

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[redacted] are on the Bureau's special correspondence list and as a matter of course receive copies of all current speeches and statements issued by the Bureau. Both men have been furnished numerous reprints in the past on topics of interest to them and the committees which they chair.

TDW:etm
(4)

MAILED 31
JAN 31 1962

Tolson
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Tele. Room
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OPTIONAL FORM NO. 10
5010-104

UNITED STATES GOVERNMENT

Memorandum

TO : DIRECTOR, FBI

DATE: January 24, 1962

FROM : SAC, CHICAGO (80-355)

SUBJECT: [redacted]
AMERICAN BAR ASSOCIATION

Enclosed herewith find two current Red Book Directories for the American Bar Association (ABA). [redacted] of the ABA, made these available on January 23, 1962, and they are being forwarded for any purpose that they might serve.

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In discussion with [redacted] mentioned to SA [redacted] that the American Bar Association Committees, Communist Tactics, Strategy and Objectives, and the Committee on Education in the Contrast Between Liberty Under Law and Communism were becoming increasingly active. [redacted] mentioned that these committees were headed by [redacted] and [redacted] Their names appear on page 36A and 37A in the enclosed directories. [redacted] noted that the Director has made numerous speeches relative to the topic of communism and that the foregoing individuals would appreciate being sent any current statements being made by the Director on the subject of communism.

EX 100

REC- 19

9+ 1-369-114

2-1
JAN 29 1962

1/31/62

ENCLOSURE

TWO

CRIME RESEARCH

2 - Bureau (Enc. 2)
1 - Chicago
JCN:DJS
(3)

OPTIONAL FORM NO. 10
5010-104-01

UNITED STATES GOVERNMENT

Memorandum

TO : DIRECTOR, FBI

DATE: 1/23/62

FROM : SAC, CHICAGO (80-355)

SUBJECT: AMERICAN BAR ASSOCIATION

Enclosed herewith find a pamphlet entitled "New Lawyer Placement Information Service" and a placement questionnaire of the American Bar Association.

[redacted] Lawyer Placement Information Service, American Bar Association, furnished the enclosed articles to SA [redacted] on January 22, 1962. In regard to the placement questionnaire, this has been completed and turned over to [redacted] on this date. He has been furnished current information concerning openings for qualified Special Agents.

[redacted] advised that since the New Lawyer Placement Information Service opened on January 2, 1962, his office has received "hundreds" of applications from lawyers seeking positions. He advised that once more publicity is given to this phase of the Association's activities, he expects to be deluged with applications from lawyers and with registrations from many prospective employers.

[redacted] said that he would do his utmost to bring to the attention of qualified applicants the fact that the Bureau has openings for Special Agents.

2 - Bureau (Enc. 2)
1 - Chicago

JCN:JAG
(3)

ENCLOSURE

REC-16

17 FEB 6 1962

THREE

ENCLOSURE TO DIRECTOR, FBI, FROM CHICAGO (2)

One (1) pamphlet entitled "New Lawyer Placement Information Service"
One (1) placement questionnaire of the American Bar Association

Re: AMERICAN BAR ASSOCIATION

Chicago file 80-355

Letter dated 1/23/62

94-1-2649-1012

ENCLOSURE

OPTIONAL FORM NO. 10

UNITED STATES GOV

Memorandum

Tolson
Belmont
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Tele. Room
Ingram
Gandy

TO : Mr. Malone

DATE: 2/1/62

FROM : H. L. Edwards

SUBJECT: AMERICAN BAR ASSOCIATION
SEMINAR ON COMMUNISM
ST. LOUIS, MISSOURI
1/26/62

At the ABA reception for lawyer members of Congress last night, 2 key lawyers from St. Louis were extremely high in their praise of Mr. DeLoach's talk at the St. Louis seminar 1/26/62 which was sponsored by the ABA Speech Committee on Communist Tactics, Strategy and Objectives in conjunction with the Missouri Bar Association. [redacted] President of the Missouri Bar Association, had been in charge of the setting up of the seminar and making arrangement at the local level. In addition to commending Mr. DeLoach, [redacted] said it was too bad more of the lawyers could not have heard him. Unfortunately he said the weather was a factor which he knew from some spot checks had prevented many from attending who had planned to do so. b6 b7C

St. Louis lawyer, [redacted] who is the Missouri Delegate to the ABA House of Delegates and 33rd Degree Mason, was profuse in the praise of Mr. DeLoach's remarks as well as his great admiration for the Director who he said was one of the greatest, if not the greatest, living American today. He referred to the Director as also being a 33rd Degree Mason. He said he was extremely pleased to learn that the Director had received the Criss Award and he volunteered that he represents the Mutual of Omaha in that area.

I told both these men we deeply appreciated their comments and I would see that they were brought to the attention of the Director.

ACTION:

Information.

REC- 22 94-1-369-1673

1 - Mr. DeLoach

HLE:ejw
(3)

EX-109

11 FEB 7 1962

CRIME RESEARCH
PERS. REC. UNIT

OPTIONAL FORM NO. 10

UNITED STATES GOVERNMENT

Memorandum

Tolson
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Tele. Room
Ingram
Gandy

TO : Mr. Mohr

DATE: January 26, 1962

FROM : H. L. Edwards

SUBJECT: AMERICAN BAR ASSOCIATION
ANNUAL RECEPTION FOR
LAWYER MEMBERS OF CONGRESS
STATLER HILTON HOTEL
WEDNESDAY, 1/31/62, 5:30 P.M.

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This morning, I received an invitation from [redacted] Director of the Washington office of the ABA, inviting me to attend the annual American Bar Association reception which is held for the lawyer members of Congress. This year it will be at the Statler Hilton Hotel on Wednesday, January 31, 1962, at 5:30 P.M.

The Director approved my attending the preceding one, although I was subsequently prevented by reason of being sent out of town on an official assignment.

I think attendance at this function would be very helpful in connection with my liaison responsibilities.

RECOMMENDATION:

That I be authorized to accept this invitation.

REC- 35 94-1-362-1674

8 FEB 8 1962

b6
b7C

1 - Mr. DeLoach
HLE:hcv
(3)

EX-102

American Bar Center

AMERICAN BAR ASSOCIATION

SPECIAL COMMITTEE ON COMMUNIST TACTICS, STRATEGY AND OBJECTIVES
1961-1962

727 Union Central Building
Cincinnati 2, Ohio
February 5, 1962

Mr. Tolson
Mr. Belmont
Mr. Mohr
Mr. Callahan
Mr. Conrad
Mr. DeLoach
Mr. Evans
Mr. Malone
Mr. Rosen
Mr. Sullivan
Mr. Tavel
Mr. Trotter
Tele. Room
Mr. Ingram
Miss Gandy

Honorable J. Edgar Hoover
Director
Federal Bureau of Investigation
United States Department of Justice
Washington, D.C.

My dear Mr. Hoover:

Thank you for your letter of January 30.

My remarks merely reflected the gratitude I feel for your fine message to the St. Louis seminar and for the encouragement and assistance you are giving us.

Mr. DeLoach gave a masterful address and effectively handled the question and answer period. I am most pleased that his message was not limited in impact to the audience in attendance and received wide national coverage.

Thank you again for your favor and kindness.

Sincerely yours,

[redacted]

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94-1-362-1615

5 FEB 9 1962

DOJ XE

CRIME RESEARCH

38

57 FEB 16 1962

FBI - DOC.
FEB 7 1962

94-1-369-1674

REC-35

February 2, 1962

Honorable [redacted]
Cedar Rapids, Iowa

EX-102

Dear [redacted]

I am indeed sorry I was out of the office when you called Wednesday afternoon. It was very thoughtful of you to think of me while you were in Washington.

Inspector Edwards advised me of the conversation he had with you Wednesday evening at the reception and I am indeed grateful for the comments which you passed along through him.

I would certainly like to talk with you any time I am in the office and I hope you will call again as opportunity permits on your future visits here.

Sincerely,

Edgar

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b7C

FEB 2 2 38 PM '62
REC'D-READING ROOM
F B I

MAILED 20
FEB 2 - 1962
COMM-FBI

1 - Mr. DeLoach
HLE:hcv
(4)

Based on memo, H. L. Edwards to Mr. Malone, 2/1/62, re: American Bar Association, Annual Reception for Lawyer Members of Congress, Statler Hilton Hotel, 2/1/62. HLE:hcv

FEB 1 8 32 PM '62
F B I
RECEIVED-DIRECTOR

FEB 5 1 12 PM '62
F B I
REC'D-MAIL ROOM

FEB 5 1962

MAIL ROOM ☐ TELETYPE UNIT ☐

REC-18 94-1-369-1676

February 5, 1962

[redacted]

Bountiful, Utah

Dear [redacted]:

I have received your letter of January 28, 1962, and appreciate the interest which prompted you to communicate with me.

In connection with the matter you mentioned, representatives of the FBI who are privileged to speak before various groups throughout the country do so with my full knowledge and approval. I can assure you that their remarks on communism do not repudiate in any way statements I have made in my speeches, or that have been reflected in my book, "Masters of Deceit." Assistant Director C. D. DeLoach in his discussion of communism dealt with this subject accurately and objectively.

The communists have tried to infiltrate every part of our society, but they have not achieved substantial success because of our internal security programs; the investigation, arrest, and prosecution of a number of Party functionaries; and the rising tide of public opposition to the communist movement. All this has been accomplished in orderly constitutional fashion and is something of which every American should be proud. We must continue to be alert to these infiltration efforts. I wish to emphasize most strongly that communism is a grave threat to the continued existence of the United States. Because of this, it is doubly imperative that we be calm, rational, and thoroughly accurate in what we say and do in opposing communism. This is no time for rumors, unfounded suspicions, gossip and the hurling of false accusations.

In view of your concern, enclosed is some material on the menace of communism I thought you might like to read.

Sincerely yours,

J. Edgar Hoover

John Edgar Hoover
Director

(5) Enclosures (5)

BS:nlb (3)

(See next page)

Tolson
Belmont
Mohr
Callahan
Conrad
DeLoach
Evans
Malone
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Ingram
Gandy

MAIL ROOM ☐ TELETYPE UNIT ☐

58 FEB 16 1962

FEB 5 4 05 PM '62
FBI
REC'D-READING ROOM

MAILED 5
FEB 5 - 1962
COMM-FBI

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b7C

[redacted]

b6
b7C

What You Can Do To Fight Communism
The Deadly Contest
4-17-61 Internal Security Statement
LEB Introduction 4-1-61
The Communist Party Line

NOTE: Correspondent is not identifiable in Bufiles. She is referring to Mr. DeLoach's speech in St. Louis on 1-26-62 at the Seminar on Communism of the American Bar Association.

Bountiful, Utah
Jan. 28, 1962

J. Edgar Hoover
Director of FBI
Washington, D. C.

Dear Mr. Hoover:

I am a little concerned, and I might add, a little confused, regarding an article I read in The Salt Lake Tribune of Jan. 28th. The article was entitled "Bar Presses starter On "Red Drive." The Bar Assoc. claims they are alarmed at the tone of anti-communist programs being conducted by "Right-Wing extremists."

I can understand the danger and uselessness of the "spy-and-accuse" approach, but I am quite un-able to understand how your assistant director can criticize those, who to use his words, "go about the country" charging that such fields as religion and Education and labor were infiltrated by communists and communist sympathizers. He goes so far as to say "there has been no substantial infiltration in these fields."

I am sure I am un-aware of how much our churches and schools have been infiltrated, but I am also sure that I could swear under oath, that I do know enough which I could prove, to make me know that they have been and are being infiltrated to a dangerous degree, and I feel you will agree with me in this; If I am mis-understanding or misinterpiting Cartha D. DeLoach, your assistant director, I would appreciate hearing from you.

Perhaps you will think I should have written to Mr. DeLoach, but I feel I have more confidence in you, as I have never read of any similar remarks made by you.

I realize the value of being discreet and informed before making remarks, but if private citizens are "muzzled" as Major Gen. Walker was, how will many who do not give these

nmb-jld ack 2-5-62 jld

IFC 2-2-62 APP

things much, if any thought, ever become informed?

I am not a member of The John Birch Society, nor any other orginization, but often I wonder if it isn't about time for all patriotic Americans to become as brazen and outspoken as the Communist Party of U. S. A. are.

Please advise me if you agree with Mr. DeLoach when he says our churches and schools are in no particular danger of being infiltrated by communists.

Thanking you, and welcoming any advice and information, I'm

Yours sincerely

/s/ [redacted]

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b7C

Bountiful, Utah

Bountiful, Uta
Jan. 28, 1962

J. Edgar Hoover
Director of FBI
Washington, D.C.

EXP PROC.
FEB 1 1962

Dear Mr. Hoover:

I am a little concerned, and I might add, a little confused, regarding an article I read in The Salt Lake Tribune of Jan. 28th. The article was entitled "Bar Breals Starter On "Red Drive". The Bar Asso claims they are alarmed at the tone of anti-communist programs being conducte by "Right-Wing Extremists".

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AMERICAN BAR ASSOCIATION

NOTED

10 FEB 1 1962

2-5-62

If I am mis-understanding or mis-interpiting Cartha D. DeLoach, your assistant Director, I would appreciate hearing from you.

Perhaps you will think I should have Written to Mr. DeLoach, but I feel I have more confidence in you, as I have never read of any similar remarks made by you.

I realize the value of being discreet and informed before making remarks, but if Private citizens are "muzzled" as Maj. Gen. Walker was, how will many who do not give these things much, if any thought, ever become informed?

I am not a member of the John Birch Society nor any other orginization, but often I wonder if it isn't about time for all Patriotic Americans to become as brazen and out-spoken as the Communist Party of U.S.A. are.

Please advise me if you agree with Mr. DeLoach when he says Our Churches and Schools are in no Particular Danger of being infiltrated by Communists.

Thanking you, and welcoming any advice and information, I'm

Yours Sincerely

[redacted] b6 b7C

Bountiful, Utah

OPTIONAL FORM NO. 10

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Malone

DATE: February 1, 1962

FROM : H. L. Edwards

SUBJECT: AMERICAN BAR ASSOCIATION
ANNUAL RECEPTION FOR LAWYER
MEMBERS OF CONGRESS
STATLER HILTON HOTEL
1/31/62

Tolson
Belmont
Mohr
Callahan
Conrad
DeLoach
Evans
Malone
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Ingram
Gandy

The ABA reception last night for the lawyer members of Congress was a very successful affair. It was estimated more than 100 Congressmen including numerous senators attended and remained for the buffet dinner. At least an equal number of members of the Bar were there including the ABA Board of Governors; President Satterfield, former ABA Presidents [redacted] Whitney North Seymour and [redacted] President-elect Sylvester C. Smith, Jr.; Supreme Court Justice Tom Clark; Solicitor General Cox and [redacted] Assistant to Deputy Attorney General White; the Judge Advocate Generals of the Army, Navy and Air Force; and a number of prominent local attorneys. Vice President Lyndon Johnson also attended.

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It was an excellent opportunity to talk with a number of Congressmen and when reference was made to the FBI there were numerous voluntary comments praising the Director and indicating continued unlimited confidence in the job the Bureau is doing. Congressman Paul Kitchin (former SAC) was as usual lavish in his praise of the Director and in the presence of many of the guests he referred to his former Bureau connection with obvious pride. It was noted that Rufus King seemed to deliberately seek opportunity for considerable conversation with Congressman Kitchin. A number of comments were overheard being directed to King concerning the publicity he recently got when he testified before the committee on pinball machines and some questions were critically raised as to King being prominently named in the news accounts as the ABA Criminal Law Section representative whereas King represents clients who manufacture the nongambling type of pinball machine.

Congressman J. Edgar Chenoweth (Republican - Colorado) was profuse in his praise of the Director and proudly referred to the fact that his son (John Edgar Chenoweth, Jr.) is a Special Agent assigned to the Oklahoma City Division as Resident Agent at Miami, Oklahoma.

Encl.
1 - Mr. DeLoach (Encl.)
HLE:hcv
(4)

FEB 16 1962

CRIME RESEARCH

Memo to Mr. Malone
Re: American Bar Association
Annual Reception for Lawyer Members of Congress

American Bar Association

Richard Bentley, Editor in Chief of the ABA Journal, was in the receiving line. He pulled me aside and privately told me he was most grateful to the Director for the article on Communism which Bentley said will come out in the February issue. Bentley said it is the finest thing he has ever seen and he thinks so highly of it that he plans on including an editorial comment in the Journal pertaining to it. [redacted] reportedly confidentially [redacted] b6 b7C b7D

aka Sylvester C. [redacted] Subject Organization

The President-elect, Sylvester Smith, who is general counsel for the Prudential Insurance Company and an SAC contact of the Newark Office, told me he spoke last week at the banquet of the Pennsylvania Bar Association in Harrisburg and made many references to the Director's views on Communism which he thinks everyone in the country ought to take to heart. He said that in almost every speech he makes he relies heavily on the Director's material and certainly when he becomes President of the ABA in August, 1962, he will be almost constantly on the speaking circuit. I think it will be well to keep Smith in mind for one of our National Academy graduation speakers. I assume he is on special mail mailing list

Former ABA President, [redacted] told me he wanted to be certain his regards were passed on to the Director. He said he had tried to call the Director, Wednesday afternoon. He had nothing in mind except to say hello to the Director. He said he will never forget how much the Director helped him during his ABA presidency and he feels that much of the progress the ABA made during that year including a considerable increase in membership was due to the Director's joining the ABA and his support through articles and otherwise. I told [redacted] I was sure the Director would deeply appreciate his thoughtfulness in trying to contact him.

of Subject Organization

b6 b7C

I fully believe my attendance at this affair paid dividends to the Bureau in the way of contacts and information and I appreciate the Director's having approved my acceptance of the invitation.

aka

ACTION:

The Director may wish to send the attached note to [redacted]

Smith already on SAC 2-5-62 memo

O.K.

OPTIONAL FORM NO. 10

UNITED STATES GOVERNMENT

Memorandum

Tolson
Belmont
Mohr
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Conrad
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Evans
Malone
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Ingram
Gandy

TO : MR. MALONE

DATE: February 5, 1962

FROM : MR. H. L. EDWARDS

SUBJECT: AMERICAN BAR ASSOCIATION
SPECIAL COMMITTEE ON COMMUNIST
TACTICS, STRATEGY AND OBJECTIVES

[redacted] captioned committee, and ABA President Satterfield have inquired again whether the Director would permit me to serve on this committee; Satterfield asked me to do previously in June, 1961, and the Director approved my declining. The matter has again come up because of special factors summarized herein.

This committee's program of sponsoring seminars throughout the country in conjunction with local bar associations seems well underway and successful. Much favorable publicity has resulted and the committee now has numerous requests for additional seminars. [redacted] told me that following the seminar at St. Louis, 1/26/62, he was interviewed by [redacted] of Scripps-Howard which resulted in a favorable news item. Also, CBS News in New York want to film the next seminar and seem interested in doing a documentary on this committee's program. [redacted] also said News Week seem interested in doing something.

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The ABA Board of Governors on 1/31/62 approved action to be presented to the House of Delegates later in February, to convert the committee to a standing or permanent committee. Also they are going to do away with the now existing separate committee to foster a program of education on communism and democracy in secondary and college school levels and merge the committee with the parent committee on Communist Tactics, Strategy and Objectives. This means committee members will serve for a 3-year term and the standing committee will henceforth have complete jurisdiction over the whole program of anti-Communism. This will give the program greater stature and, according to [redacted] Satterfield, enable the committee to seek foundation funds to expand its work. In fact, Satterfield [redacted] were in New York 2/2/62 for preliminary contact with the Sloan Foundation for $390,000

Satterfield emphasized that if the Director had misgivings he could rest assured that my being named to the committee would be as a lawyer and member of ABA rather than as an FBI employee. As you know, Satterfield has relied very heavily on informal guidance from the Bureau and we have encountered no problems to date.

EX-107 REC-22 94-1-362-1678

[redacted] primary motivation in wanting me on the committee is because he has encountered much infighting among certain committee members and frankly feels inadequate in controlling it. [redacted] Miami,

HLE:hcv, wmj
(5)

1 - Mr. DeLoach 1 - Mr. Sullivan

25 FEB 14 1962

FEB 26 1962

PERS. REC. UNIT

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who, [redacted] even speculates [redacted] There has been [redacted]

[redacted]

Present committee members are: [redacted] Baton Rouge, Louisiana; [redacted] of Richmond, Virginia; [redacted] Jr., of Miami; Raymond W. Miller of Washington, D. C.; Admiral William C. Mott of the Navy; L. B. Nichols of New York City; Mario T. Noto of the Immigration and Naturalization Service; [redacted] of Philadelphia; former Special Agent Dan H. Shell of Satterfield's law firm, Jackson, Mississippi; [redacted] Orange City, Iowa; and former New Hampshire Attorney General Louis C. Wyman. All are known to me. When the committee becomes a standing committee, they contemplate reducing the membership from 14 (there are now 12 on the committee and 2 vacancies which Satterfield has deliberately kept open) to 11 members. Satterfield would name the standing committee. Some would come from the committee on education which will be merged into the standing committee.

Satterfield [redacted] reminded me that the present committee has 2 Federal members and my being a Federal employee should not preclude my accepting. Also, that as a committee member I would not be in a position of supporting legislation any more than I am as a member of the Criminal Law Section Council; further, that the committee's work will be concerned with legislation in the security field only to minor degree.

In summary, these are some advantages to committee membership: I would have a definite voice at the committee meetings; would be able to exercise better control than might always be possible through informal dealing; I would not deal through a middleman (i. e., [redacted] who may not be as effective because of personal feelings against him. I would have the weight of the FBI in my participation despite being a member in my ABA capacity. Committee membership could help foster the forthcoming text on Communism and continued promotion of "Masters of Deceit." But, these are definite disadvantages: Committee membership would mean much more work and, undoubtedly, I would have to have some of my other ABA liaison work reassigned or curtail it. This is now and will become an increasingly active committee. Also, the work of this committee is unquestionably of a controversial nature and may become even more so. The Bureau would risk criticism on some of the committee's work.

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Memo for Mr. Malone
Re: ABA

Considering the over-all picture I feel the disadvantages outweigh the advantages. I think we can continue getting the Bureau's viewpoint across through informal dealing with the committee and particularly through ABA President Satterfield, President-elect Sylvester C. Smith and the next President-elect who will probably be Walter Craig of Phoenix, Arizona. All of these men are favorably known to me and respect the Director and the Bureau highly. I am willing to do whatever the Director thinks will be to the best interests of the Bureau. There is no question in my mind but that this committee probably will become one of the most important in the ABA and its impact on the future welfare of the country will be very great provided it does not get out of hand.

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RECOMMENDATION:

That I again decline membership on this committee. If approved, I will tell Satterfield [redacted] that I do not have the time which committee membership would demand and further that for reasons indicated previously I feel our best help can be through a continuation of informal cooperation with the committee. Both Satterfield [redacted] will, undoubtedly, be reluctant to accept this decision but it should create no real problem.

I concur

Done 1/9/62

OPTIONAL FORM NO. 10

UNITED STATES GOVERNMENT

Memorandum

Tolson
Belmont
Mohr
Callahan
Conrad
DeLoach
Evans
Malone
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Ingram
Gandy

TO : MR. MALONE

DATE: February 13, 1962

FROM : MR. H. L. EDWARDS

SUBJECT: AMERICAN BAR ASSOCIATION
MIDYEAR BMEETING
CHICAGO, ILLINOIS
4/14 - 20/62

In connection with the above commitment for which the Director has approved the attendance of Special Agent Supervisor [redacted] b6 b7C and myself, the following is our itinerary:

Depart Washington, D. C., 5:15 PM, 2/13/62, via B&O Capital Limited.

Arrive Chicago 8:00 AM, 2/14/62 (accommodations to Chicago - roomettes 7 and 6, car 52).

At Chicago available c/o SAC or Edgewater Beach Hotel. Will advise of return itinerary.

ACTION:

None . . . . informative.

HLE:wmj
(5)
1 - Information Desk
1 - Movement Section

EX-108

REC-5 94-1-2429-1679

15 FEB 14 1962

PERS./REC. UNIT

TWO

96

FEB 21 1962

UNIVERSITY OF CALIFORNIA

DEPARTMENT OF POLITICAL SCIENCE
LOS ANGELES 24, CALIFORNIA

AIR MAIL

February 20, 1962

Mr. Cartha D. DeLoach
Assistant Director of the
Federal Bureau of Investigation
Department of Justice
Washington, D. C.

Dear Mr. DeLoach:

I wonder if you would be so good as to send me a copy of your address given before the American Bar Association in St. Louis in January. Brief excerpts from this address were reported in the New York Times and I would feel privileged to read the entire manuscript.

Sincerely yours,

[redacted]

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EAE:bg

94-1-369-11680

REC-19

11 FEB 27 1962

EX-101

63 MAR 5 1962

URGENT 2-16-62 8-42 PM JEG

TO DIRECTOR FBI ATTENTION MR. MALONE

FROM INSPECTOR H. L. EDWARDS Chicago

AMERICAN BAR ASSOCIATION ~~PAREN~~(ABA)~~ENPAREN~~ MID YEAR MEETING, CHICAGO, ABA IS FIRMING UP PLANS FOR NINETEEN SIXTY TWO ANNUAL MEETING NEXT AUGUST AT SAN FRANCISCO. ALL INDICATIONS ARE THAT THIS WILL BE AN OUTSTANDING MEETING WITH RECORD ATTENDANCE. PRESIDENT SATTERFIELD WOULD LIKE THE DIRECTOR TO CONSENT TO ADDRESS THE MAIN ASSEMBLY MEETING, TUESDAY MORNING, AUGUST SEVEN OR A SPECIAL LUNCHEON MEETING IF THE DIRECTOR WOULD PREFER. THE ASSEMBLY WOULD BE THE LARGEST GATHERING OF ABA MEMBERS AND OFFICERS AND THE AUDIENCE WOULD NUMBER IN THE THOUSANDS SATTERFIELD WOULD BE CONCLUDING HIS TERM AS PRESIDENT, AND HE HAS TAKEN SUCH A PERSONAL AND ACTIVE INTEREST IN ABA PROGRAMS OF AMERICANISM AND ANTI ~~BACH~~ COMMUNISM THAT HE FEELS THE DIRECTOR WOULD EXEMPLIFY THE MOST NOTEWORTHY ABA ACCOMPLISHMENTS AND THEIR CONTINUING GOALS. THE DIRECTOR WILL PROBABLY SOON RECEIVE AN INVITATION FOR THIS SPEECH. OREGON ATTORNEY GENERAL THORNTON ARRIVED THURSDAY EVENING, AND I ARRANGED A BREAKFAST MEETING FOR HIM WITH SATTERFIELD [redacted]

~~CORRECTION~~ L ~~12 W8 SLD~~ BE "GOALS"

END PAGE ONE

94-1-369-168

EX 107

25 FEB 26 1962

MR. MOHR FOR THE DIRECTOR

NO ED

WHICH RESULTED IN PLANS FOR COOPERATION BY THE NATIONAL ASSOCIATION OF ATTORNEYS GENERAL ~~PAREN~~ (NAAG) ~~ENDAREN~~ WITH THE ABA ANTI ~~DASH~~ COMMUNISM PROGRAM. TENTATIVE PLANS MADE FOR SATTERFIELD TO ADDRESS FORTH COMING NAAG ANNUAL MEETING AT SAN JUAN IN APRIL WHICH GENERAL THORNTON SAYS WILL BE THE FIRST TIME ANY ABA PRESIDENT HAS ADDRESSED NAAG. TIMING ON DIRECTORS ABA JOURNAL ARTICLE APPEARS PERFECT IN VIEW OF PRESS INTEREST AND NUMEROUS LAUDATORY COMMENTS BY THOSE ATTENDING MEETING. ABA PUBLIC RELATIONS STAFF EXTREMELY PLEASED WITH WIDESPREAD ACCEPTANCE OF DIRECTOR-S ARTICLE.

END AND ACK PLS

9-52 PM OK FBI WA WS

cc-Mr. DeLoach

REC- 39 94-1-369-1682

February 16, 1962

Mr. Richard Bentley
Editor -in-Chief
American Bar Association
Journal
1155 East 60th Street
Chicago 37, Illinois

FEB 19 2 19 PM '62
RECD-READING ROOM
FBI

Dear Mr. Bentley:

I have read the February issue of your magazine and could not let the opportunity pass without expressing my deep appreciation for the very fine comments concerning the FBI and me.

I also want to thank you for the splendid coverage you gave my article on communism, and you may be certain it was a pleasure for me to prepare this. In this regard, I have autographed to you a copy of my book, "Masters of Deceit," and it is being forwarded under separate cover.

Sincerely yours,

J. Edgar Hoover

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MAILED 5
FEB 16 1962
COMM-FBI

NOTE: Inspector Edwards, who is attending the American Bar Association mid-year meeting in Chicago, has advised that he has secured copies of the February, 1962, American Bar Association Journal which contains the Director's article as a feature and also contains a very favorable editorial concerning the Director's fight against communism. Inspector Edwards said that American Bar Association Editor Richard Bentley and Assistant to the Editor-in-Chief [redacted] advised they are highly appreciative of the Director having given them this article and they have sent one copy of the Journal to the Director and have sent separately 12 extra copies to the Bureau. Edwards suggested that the Director might want to send Bentley and [redacted] a personally autographed copy of "Masters of Deceit" and copies have been sent up separately to the Director's Office for autographing under date of 2-16-62. Edwards pointed out that both Bentley and [redacted] are good friends of the Bureau. Letters being written on basis of teletype from Edwards. Copies of Journal have not yet been received.

ELC:kmd (5)

Olson
Belmont
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Callahan
Conrad
DeLoach
Evans
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Rosen
Sullivan
Tavel
Trotter
Tele. Room
Ingram
Gandy

MAIL ROOM TELETYPE UNIT

Mr. Tolson
Mr. Belmont
Mr. Mohr
Mr. Callahan
Mr. Conrad
Mr. DeLoach
Mr. Evans
Mr. Malone
Mr. Rosen
Mr. Sullivan
Mr. Tavel
Mr. Trotter
Tele. Room
Mr. Ingram
Miss Gandy

URGENT 2-15-62 12-26 APM JEG

TO DIRECTOR FBI ATTENTION ASSISTANT DIRECTOR MALONE

FROM INSPECTOR H. L. EDWARDS 3P

ABA MIDYEAR MEETING, CHICAGO. EDWARDS [redacted] ARRIVED CHICAGO TODAY AND ARE AVAILABLE ROOM SEVEN TWENTY, EDGEWATER BEACH HOTEL. THIS IS SUMMARY OF ITEMS OF INTEREST COVERED AT FIRST DAY MEETING. COPIES OF FEB. SIXTY TWO ISSUE OF ABA JOURNAL CONTAINING DIRECTOR-S ARTICLE AS FEATURE, SECURED. JOURNAL ALSO HAS VERY FAVORABLE EDITORIAL, PAGE ONE FOUR FOUR, CONCERNING DIRECTOR-S FIGHT AGAINST COMMUNISM. ABA EDITOR RICHARD BENTLEY AND ASSISTANT TO THE EDITOR IN CHIEF [redacted] ADVISED THEY ARE HIGHLY APPRECIATIVE OF DIRECTOR HAVING GIVEN THEM THIS ARTICLE. THEY SENT ONE COPY OF JOURNAL, FIRST CLASS MAIL, TO DIRECTOR, AND SEPARATELY SENT TWELVE EXTRA COPIES TO BUREAU. EDWARDS THANKED THEM FOR THE EXCELLENT EDITORIAL AND FOR GIVING THE ARTICLE SUCH PROMINENCE IN JOURNAL. IN VIEW OF THE FACT THAT BOTH BENTLEY AND [redacted] ARE SUCH GOOD FRIENDS OF BUREAU, SUGGEST DIRECTOR MAY WANT TO SEND EACH A PERSONALLY AUTOGRAPHED COPY OF MASTERS OF DECEIT. BOTH ARE VERY DEEPLY INTERESTED IN FIGHTING COMMUNISM. EDWARDS WILL SECURE NECESSARY PERMISSION FROM EDITORIAL STAFF TO MAKE REPRINTS OF ARTICLE. COMMITTEE [redacted] SPECIAL COMMITTEE ON COMMUNIST TACTICS, STRATEGY AN[redacted]

94-1-369-1682

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END PAGE ONE

MR. MOHR FOR THE DIRECTOR

OBJECTIVES ALSO ARRIVED TODAY. HE IS HAVING HIS FULL COMMITTEE MEETING SATURDAY MINUS L. B. NICHOLS WHO CANNOT ATTEND BECAUSE OF ILLNESS. [redacted] VERY CONCERNED ABOUT SOME OF THE INTERNAL JEALOUSY, PARTICULARLY SUSPECTED AS COMING FROM COMMITTEE MEMBER [redacted] FLORIDA, WHOM HE FEELS TENDS TOWARD EXTREME RIGHT. EDWARDS FEELS [redacted] TENDING TO MAGNIFY THIS IN HIS MIND, BUT IN ORDER TO BE SURE, EDWARDS FEELS IT WOULD BE WELL FOR HIM TO SIT IN ON THE SATURDAY MEETING STRICTLY AS AN OBSERVER. IN THIS WAY, EDWARDS CAN SEE FOR HIMSELF WHETHER THERE APPEARS TO BE THE INTERNAL STRIFE OR WHETHER [redacted] IS OBTAINING A DISTORTED VIEW. THIS IS BELIEVED ESSENTIAL FOR OUR CONTINUING COOPERATION WITH COMMITTEE AND TO PERMIT OUR PROPER EVALUATION OF THE COMMITTEE MEMBERS. [redacted] AS WELL AS ABA PRESIDENT SATTERFIELD, WOULD WELCOME EDWARDS- PRESENCE AND NO POSSIBLE EMBARRASSMENT CAN BE FORSEEN. UNLESS ADVISED TO CONTRARY BY BUREAU UACB, EDWARDS WILL ATTEND. ALSO, NATIONAL ASSOCIATION OF ATTORNEYS GENERAL (NAAG) DESIROUS OF COOPERATING WITH [redacted] COMMITTEE AND PROGRAM. THIS IS WELCOME ENTHUSIASTICALLY BY ABA COMMITTEE. ATTORNEY GENERAL ROBERT THORNTON OF OREGON, WHO IS THE NAAG CHAIRMAN OF ITS INTERNAL SECURITY COMMITTEE, IS COMING TO CHICAGO FRIDAY TO MEET WITH [redacted] AND POSSIBLY ATTEND SATURDAY COMMITTEE MEETING. EDWARDS HAS BEEN WORKING WITH THORNTON AND WILL INTRODUCE HIM. [redacted] ABA CONTROLLER, APPROACHED EDWARDS [redacted] CONCERNING DESIRABILITY OF ABA FOSTERING A PROGRAM PROBABLE THROUGH ITS STANDING COMMITTEE ON CITIZENSHIP, OBJECTIVE OF WHICH WOULD BE ALERT CITIZENS TO THE DESIRABILITY OF BEING WILLING AND GOOD WITNESSES. PROGRAM WOULD INDLUDE SOME EDUCATION AS TO HOW TO BE A GOOD WITNESS. THIS WILL BE FOLLOWED CLOSELY

END PAGE TWO

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PAGE THREE

AND FURTHER DEVELOPMENTS REPORTED. WALTER CRAIG ADVISED TODAY THAT HE IS STILL CONFIDENT OF BEING NOMINATED AT THIS MEETING AS NEXT ABA PRESIDENT ELECT. HE IS EXCELLANT FRIEND OF BUREAU AND WOULD BE AN IDEAL CHOICE. THIS WILL BE FOLLOWED CLOSELY. ADDITIONAL REPORTS WILL BE SUBMITTED ON DAILY BASIS. SUBSEQUENT TO DICTATION OF THIS TELETYPE, [redacted] ADVISED HE HAD JUST READ THE DIRECTOR-S ARTICLE IN THE JOURNAL AND PLANS TO PERSONALLY WRITE THE DIRECTOR ON HIS RETURN TO CINCINNATI AS TO HOW WONDERFUL HE FEELS IT IS. IN MEANTIME, HE ASKED EDWARDS TO PASS ALONG TO DIRECTOR HIS CONGRATULATIONS AND DEEP APPRECIATION FOR DIRECTOR-S EXPRESSED CONFIDENCE IN RHODES AND THE WORK OF HIS COMMITTEE. [redacted] SAID HE WANTED DIRECTOR TO KNOW HE WOULD DO HIS BEST TO LIVE UP TO THE DIRECTOR-S HIGH EXPECTATIONS IN THIS COMMITTEE WORK.

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b7D

~~CORR PAGE 1 LINE THREE~~ LAST LETTER SHOULD BE A COMMA.

END AND ACK

~~THIS IS FROM CG~~ YES AND ~~TNE CORR TIME IS 12-26~~ AM

OK

1-41 AM OK FBI WA JS

TU DISC

cc: Mr. Mohr
cc: Mr. [illegible]

February 16, 1962

[redacted]
Assistant to the Editor-in-Chief
American Bar Association Journal
1155 East 60th Street
Chicago 37, Illinois

Dear [redacted]

I want to take this opportunity to thank you for the fine spread you gave my article in the February issue of the American Bar Association Journal, and I also deeply appreciate the favorable editorial comments concerning this Bureau's fight against communism. I do hope that my observations will give your readers a better insight into the conspiratorial nature of communism.

I thought you might like to have my book, "Masters of Deceit," and it is a pleasure for me to forward you, under separate cover, a copy which I have autographed to you.

Sincerely yours,

J. Edgar Hoover

FEB 16 2 19 PM '62
REC'D-READING ROOM
FBI

MAILED 5
FEB 16 1962
COMM-FBI

NOTE: Inspector Edwards, who is attending the American Bar Association mid-year meeting in Chicago, has advised that he has secured copies of the February, 1962, American Bar Association Journal which contains the Director's article as a feature and also contains a very favorable editorial concerning the Director's fight against communism. Inspector Edwards said that American Bar Association Editor Richard Bentley and Assistant to the Editor-in-Chief [redacted] advised they are highly appreciative of the Director having given them this article and they have sent one copy of the Journal to the Director and have sent separately 12 extra copies to the Bureau. Edwards suggested that the Director might want to send Bentley and [redacted] a personally autographed copy of "Masters of Deceit" and copies have been sent up separately to the Director's Office for autographing under date of 2-16-62. Edwards pointed out that both Bentley and [redacted] are good friends of the Bureau. Letters being written on basis of teletype from Edwards. Copies of Journal have not yet been received.

ELC:kmd (5)

FEB 26 1962

MAIL ROOM ☐ TELETYPE UNIT ☐

OPTIONAL FORM NO. 10
5010-104

UNITED STATES GOVERNMENT

Memorandum

TO : DIRECTOR, FBI

DATE: 2/16/62

FROM : SAC, RICHMOND (94-390) - P -

SUBJECT: AMERICAN BAR ASSOCIATION (ABA)
SPECIAL COMMITTEE ON COMMUNIST
TACTICS, STRATEGY, AND OBJECTIVES

Mr. Tolson
Mr. Belmont
Mr. Mohr
Mr. Callahan
Mr. Conrad
Mr. DeLoach
Mr. Evans
Mr. Malone
Mr. Rosen
Mr. Sullivan
Mr. Tavel
Mr. Trotter
Tele. Room
Mr. Ingram
Miss Gandy

b6
b7C

Re Richmond letter dated 1/30/62.

Enclosed herewith for the information of the Bureau are copies of the following news clippings pertaining to the captioned matter:

(1) Article appearing in the Richmond Times-Dispatch, Richmond, Virginia, dated February 6, 1962, captioned "Booklet Urges Courses on Communism".

(2) An editorial appearing in the Richmond News Leader, Richmond, Virginia, dated February 8, 1962, captioned "The Long Fight".

Any additional data received will be furnished to the Bureau.

2 - Bureau (Encl. 2)
1 - Richmond
CFH/vlr
(3)

ENCLOSURE

REC-3 94-1-369-16

10 FEB 19 1962

EX-101

5 MAR 1962

CRIME RESEARCH

Booklet Urges Courses on Communism

A special committee of the American Bar Association, headed by a Richmond attorney, has outlined a program to encourage colleges and secondary schools to present classroom instruction on the nature and aims of international communism.

The need for this instruction on communism, which "belatedly . . . is now becoming recognized," is outlined in a 24-page handbook released today by the ABA to local bar associations and educators throughout the country.

The handbook, which was written by Lewis F. Powell Jr. of Richmond, chairman of the committee, is designed to guide state and local bar associations that seek to encourage school officials in establishing such courses.

Reluctance Found

Powell, who is also a member of the Virginia Board of Education, said that "some educators in this area have been in favor of instituting such instruction . . . but some have been reluctant because of an uncertainty as to how the public would react."

Before beginning this program, the ABA committee consulted several prominent educators and school administrators from different parts of the country.

Among them were Dr. Fred Carrington Cole, president of Washington and Lee University, and Dr. Frederick D. G. Ribble, dean of the University of Virginia Law School.

Powell said that the educators met with the ABA committee for two days in Washington, approved the proposed project and indicated that it would be especially helpful if an organization with the prestige of the ABA sponsored such a program.

Each man was acting on a personal basis and not as representatives of his particular institution, Powell said. They did not actually assist in preparing the committee's program.

Powell, who was chairman of the Richmond School Board from 1952-61, said that the bar is not trying to interject itself into the role of educator, but is merely trying to point out the need for such a program and ways it can be achieved.

The handbook, which is entitled "Instruction on Communism and Its Contrast With Liberty Under Law," also recognizes "the equal importance of instilling a greater appreciation of democracy and freedom under law and the will to preserve that freedom."

Although the duration of these courses may vary in accordance with school curriculums, the committee feels "that a full half-year course (one semester) is necessary for the most effective treatment of this important and complex subject."

The ABA committee believes that the local bar association can aid materially in instituting such instructional programs by helping to dispel public misunderstanding about the need and purpose, helping educational authorities find qualified teachers and teaching material, and encouraging these authorities to undertake such programs.

"This must be considered a program in sound education and not some form of counter-propaganda," Powell said. "Despite the many problems involved in implementing the program, there must be a more sophisticated knowledge of communism if the free world is to survive," he said.

Mr. Tolson
Mr. Belmont
Mr. Mohr
Mr. Callahan
Mr. Conrad
Mr. DeLoach
Mr. Evans
Mr. Malone
Mr. Rosen
Mr. Sullivan
Mr. Tavel
Mr. Trotter
Tele. Room
Mr. Ingram
Miss Gandy

RICHMOND TIMES-DISPATCH
RICHMOND, VIRGINIA

Date: FEB 6 1962

Editor: VIRGINIUS DABNEY

Author:

Re:

RH FILE:

BU FILE:

94-1-369-1684

ENCLOSURE

Mr. Tolson	
Mr. Belmont	
Mr. Mohr	
Mr. Callahan	
Mr. Conrad	
Mr. DeLoach	
Mr. Evans	
Mr. Malone	
Mr. Rosen	
Mr. Sullivan	
Mr. Tavel	
Mr. Trotter	
Tele. Room	
Mr. Ingram	
Miss Gandy	

The Long Fight

The announcement this week came from Chicago, but citizens of Richmond will know and applaud the real source: The American Bar Association made public its recommendation for the study of communism in high schools. The ABA proposal is largely the achievement of Lewis F. Powell, as chairman of the association's Special Committee on Education in Contrast Between Liberty Under Law and Communism.

The committee's name is formidable; but so is the urgency of the problem. The 24-page handbook just released says to the nation what Mr. Powell has been saying here at home: We need formal courses in our high schools contrasting the American system with that of Soviet Russia.

And who would be more qualified than Mr. Powell to make such a recommendation? For years he has been at the forefront of legal, civic, and educational affairs in our city. In 1958 he traveled to Russia with the American Bar Association group studying the Soviet legal system; at the same time, as chairman of the Richmond School Board, he visited schools in Leningrad and Kiev where he recognized Soviet education as a major factor in the Soviet scheme.

The new handbook prepared by Mr. Powell's committee should help put an end to quibbling about the study of ~~communism~~ in our ~~educational~~ system. We never could understand

RICHMOND NEWS LEADER
RICHMOND, VIRGINIA

Date: FEB 1962

Editor: JAMES J. KILPATRICK

AUTHOR:

RE:

RH FILE:

BU FILE:

ENCLOSURE 94-1-369-1684

the extreme caution of educators who circle three times around these courses and then walk away. Men who never had any doubts about teaching John Dewey's version of democracy, now sigh and express their fears that the teaching of communism would be "misunderstood"—ostensibly by the parents. We have the deep-down suspicion that these educators are afraid that the students will misunderstand. For after all, it is pretty hard to swallow the approved doubletalk that reconciles the harsh realities of communism with the educationist theory that man is composed of equal parts of sweetness and light.

The program proposed by the handbook is a scholarly and objective treatment of communism. The committee asks that regular courses in history and U. S. Government be supplemented by formal units in the study of Soviet doctrines, specifically contrasting Communist methods and objectives with those of the American system of freedom under law. These lawyers emphasize that the curent struggle is a long fight against a determined enemy. "This is a new type of world conflict," says the report, "little understood by our sheltered and generous people."

This is forthright language, and coming from so eminent a source as the ABA, it merits the prompt consideration of school boards across the nation.

0-19 (Rev. 6-1-61)

F.B.I. Head Accuses 'Experts' On Communism of Stirring Fear

Too Many Give Distorted Data and Bring on Hysteria, He Warns in Law Article

By AUSTIN C. WEHRWEIN

Special to The New York Times.

CHICAGO, Feb. 15—J. Edgar Hoover attacked self-appointed experts on communism in an article published today in the American Bar Association Journal.

He said their tactics and personality quirks caused fear and set off hysterical reactions.

The director of the Federal Bureau of Investigation did not mention such extreme right-wing groups as the John Birch Society. But the allusion appeared to be clear when he said:

"Today far too many self-styled experts on communism are plying the highways of America giving erroneous and distorted information.

"This causes hysteria, false alarms, misplaced apprehension by many of our citizens.

"We need enlightenment about communism, but this information must be factual, accurate and not tailored to echo personal idiosyncracies. To quote an old aphorism, we need more light and less heat."

'Law v. Tyranny'

On Jan. 27, at a St. Louis meeting sponsored by the A. B. A., Cartha D. De Loach, assistant F. B. I. director, said many patriotic persons belonged to such extremist organizations as the Birch Society.

But he warned that "wild, false and reckless" charges divided and confused Americans, and that those who made them played into the hands of the Communists.

Mr. Hoover also criticized lawyers who worked for Communists. He said:

"The battle, most truly, is one of law versus tyranny. To a large extent, America's answer [to communism] must rest with the lawyers of the nation."

"Actually," Mr. Hoover said, "the Communist party has been able to recruit only a very few [American] attorneys."

He continued:

"Support of the aims of communism and faithfulness to the law of our land are irreconcilable. A few lawyers are assisting the party through front groups, which, though allegedly espousing legitimate aims, actually are transmission belts of communism to the masses.

"Particularly reprehensible is advice from attorneys which would enable the party to impugn the integrity of the laws of the land.

"As long as a few members of the legal profession, wittingly or unwittingly, serve these ends, the Communists will be the gainers."

Mr. Hoover praised the association's program to combat communism through education. He said its special committee on Communist tactics and objectives was "fostering high-level, dignified, objective seminars."

"Our fight against communism must be a sane, rational understanding of the facts," he emphasized. "Emotional outbursts, extravagant name-calling, gross exaggerations hinder our efforts.

"We must remember that many non-Communists may legitimately, on their own, oppose the same laws or take positions on issues of the day which are also he' the Communists.

"Their opinions, though ter porarily coinciding with tl party line, do not make the: Communists."

Associated Press

J. Edgar Hoover

Tolson
Belmont
Mohr
Callahan
Conrad
DeLoach
Evans
Malone
Rosen
Sullivan
Tavel
Trotter
Tele Room
Ingram
Gandy

no let nec straight reporting "NY Times" on "unfriendly" led RW8

The Washington Post and Times Herald ____
The Washington Daily News ____
The Evening Star ____
New York Herald Tribune ____
New York Journal-American ____
New York Mirror ____
New York Daily News ____
New York Post ____
The New York Times ____
The Worker ____
The New Leader ____
The Wall Street Journal ____
Date ____

FEB 16 1962

94-1-369

NOT RECORDED
46 MAR 6 1962

PERS. REC. UNIT

FEDERAL BUREAU OF INVESTIGATION
U. S. DEPARTMENT OF JUSTICE
COMMUNICATIONS SECTION
FEB 19 1962
TELETYPE

Mr. Tolson
Mr. Belmont
Mr. Mohr
Mr. Callahan
Mr. Conrad
Mr. DeLoach
Mr. Evans
Mr. Malone
Mr. Rosen
Mr. Sullivan
Mr. Tavel
Mr. Trotter
Tele. Room
Mr. Ingram
Miss Gandy

URGENT 2-19-62 10-15 PM JEG

TO DIRECTOR FBI ATTN.. MR. MALONE

FROM INSPECTOR H. L. EDWARDS 5P

AMERICAN BAR ASSOCIATION MID ~~DASH~~ YEAR MEETING, CHICAGO. THIS REPORT COVERS ACTIVITIES SAT, SUN AND MORNING AND AFTERNOON SESSIONS MON. SAT NIGHT EDWARDS ATTENDED DINNER WHERE SECRETARY OF DEFENSE MC NARAMA SPOKE. HE RECEIVED EXCELLENT PRESS BUT SPEECH CONTAINED NOTHING NEW AND WAS CONFINED TO DESCRIPTION OF CURRENT COLD WAR MILITARY TACTICS. [redacted] COMMITTEE MET SAT AND SUN. ALTHOUGH SESSIONS WERE AT TIMES HEATED, AGREEMENT WAS REACHED ON ALL MATTERS AND ADJOURNMENT WAS AMICABLE [redacted] WHO SAID HE HAD JUST BEEN MADE ASSOCIATE COMMISSIONER OF IMMIGRATION AND NATURALIZATION SERVICE, ATTENDED AS COMMITTEE MEMBER. b6 b7C b7D HE URGED THAT ASSISTANT ATTORNEY GENERAL WALTER YEAGLEY AND JAY LOVESTONE BE ADDED TO COMMITTEES LIST OF PANELISTS. [redacted] SATTERFIELD WOULD NOT PERMIT THIS. SATTERFIELD TOLD COMMITTEE IT WAS MOST ESSENTIAL THAT SEMINAR SPEAKERS AND PANELISTS BE FREE OF ANY EXTREMISTS AS WELL AS ANY WHO HAD BOLTED FROM COMMUNIST GROUP. VARIOUS COMMITTEE MEMBERS SAID THEY WOULD ~~QUOTE~~ " SLEEP BETTER " ~~END QUOTE~~ IF THEY COULD BE ASSURED FBI HAD SCREENED PANELISTS. SATTERFIELD VERY DISCREETLY HANDLED THIS BY ASSURING COMMITTEE THAT HE PERSONALLY MADE VARIOUS HIGH LEVEL CHECKS WHERE WARRANTED AND THAT COMMITTEE NEED NOT CONCERN ITSELF WITH DETAILS ON THIS POINT. AT HOUSE OF DELEGATES MONDAY, [redacted] PRESENTED PROPOSAL

EX-107 REC-14 44-1-857-1685

28 FEB 28 1962

END PAGE ONE

MR. MOHR FOR THE DIRECTOR

TO MAKE HIS COMMITTEE A STANDING PERMANENT ONE AND TO MERGE WITH IT THE SPECIAL COMMITTEE ON EDUCATION IN THE CONTRAST BETWEEN COMMUNISM AND DEMOCRACY. THIS RESOLUTION UNANIMOUSLY APPROVED AND WILL BE UP FOR FINAL ACTION AT SAN FRANCISCO ANNUAL MEETING NEXT AUG SINCE AN AMENDMENT TO THE BYLAWS IS REQUIRED. [redacted] PRAISED DIRECTORS ARTICLE IN ABA JOURNAL BEFORE THE HOUSE AND URGED ALL MEMBERS TO READ AND DISSEMINATE IT. HE ALSO COMMENDED DIRECTOR FOR ARRANGING AN ALL DAY MEETING AND HAVING A PERSONAL AUDIENCE WITH HIS COMMITTEE IN SEPT, SIXTYONE, WHICH [redacted] STATED HELPED COMMITTEE GET A GOOD START. FOLLOWING HIS HOUSE REPORT [redacted] b6 b7C b7D CONFIDENTIALLY TOLD EDWARDS HE SENSES UNDERCURRENT AGAINST [redacted] EDWARDS THINKS THIS IS JUST MORE OF [redacted] HYPERSENSITIVE ~~EXAMININGS~~ IMAGININGS BUT WILL CERTAINLY BE ALERT TO INDICATIONS OF SUCH MOVE. PER TELEPHONE REQUEST FROM BUREAU TODAY, THREE COPIES ABA JOURNAL SENT AIR MAIL AM ATTENTION CRIME RECORDS DIVISIONS FOR USE IN MAKING REPRINTS. EDWARDS RECEIVED LETTER FROM ABA CONFIRMING AUTHORITY TO MAKE REPRINTS. [redacted] CHAIRMAN OF FEDERAL JUDICIARY COMMITTEE, WHICH SCREENS PROSPECTIVE FEDERAL JUDICIARY APPOINTEES, GAVE REPORT TO HOUSE OF DELEGATES SUMMARIZING STATUS OF JUDICIAL APPOINTMENTS. HE INDICATED CLOSE LIAISON AND COOPERATION EXISTS BETWEEN HIS COMMITTEE AND ATTORNEY GENERAL. HE IMPLIED A NOTE OF DISSATISFACTION, STATING THAT WHILE MOST OF COMMITTEES RECOMMENDATIONS RE PROSPECTIVE APPOINTMENTS ARE FAVORABLE HE NOTED KENNEDY ADMINISTRATION APPOINTED SEVEN FEDERAL

b6 b7C

JUDGES WHO WERE, COMMITTEES REPORTS CONCLUDED, CANDIDATES NOT QUALIFIED. [redacted] ALSO EXPRESSED DISAPPOINTMENT BECAUSE PRESENT ADMINISTRATION CREATED IMBALANCE IN APPOINTING FAR MORE DEMOCRATS THAN REPUBLICANS. [redacted] SAID LOCAL BAR ASSOCIATIONS SHOULD EXERCISE INFLUENCE ON LOCAL POLITICAL LEADERS TO ASSURE ONLY BEST QUALIFIED JUDGES ARE APPOINTED. [redacted] CONCLUDED REMARKS BY STATING LIAISON WITH DEPARTMENT OF JUSTICE WAS b6 b7C EXCELLENT AND COMMITTEE HAD BEEN ASSURED PRESIDENT KENNEDY WILL MAKE NO APPOINTMENT TO FEDERAL BENCH WITHOUT FIRST READING COMMITTEES REPORTS ON CANDIDATES. DEPUTY ATTORNEY GENERAL WHITE, WHO ATTENDED HOUSE OF DELEGATES AS DEPARTMENT REPRESENTATIVE, WAS INVITED TO RESPOND TO [redacted] REMARKS. WHITE MADE A FEW FRANK COMMENTS, STATING THAT EVEN THOUGH [redacted] COMMITTEE CONTENDED SEVEN APPOINTEES NOT QUALIFIED, WHITE SAID COMMITTEE WAS NOT ~~QUOTE~~ "OMNISCIENT" ~~END QUOTE~~ AND COMMITTEE REPORT WAS ONLY ONE OF NUMEROUS SOURCES UTILIZED IN SCREENING CANDIDATES, AND THAT FINAL DECISION MUST BE LEFT TO GOOD JUDGMENT OF PRESIDENT KENNEDY. IN REPLY TO THE CRITICISM OF POLITICAL PARTISANSHIP, WHITE SAID ABILITY RATHER THAN POLITICAL BELIEF IS THE PROPER CRITERIAN AND POLITICAL AFFILIATION SHOULD NOT BE CONTROLLING. WHITE FURTHER SAID PERFECT DECISION OF FEDERAL JUDGES ACCORDING TO POLITICAL AFFILIATION NOT FEASIBLE OR DESIRABLE AND MADE THE POINT THAT IF THIS ARGUMENT CARRIED TO

END PAGE THREE

LOGICAL SOURCE, A PARTY LIKE LIBERAL PARTY OF NEW YORK WOULD BE ENTITLED TO EQUAL REPRESENTATION. WHITE REFERRED ALSO TO [redacted] STATEMENT THAT COMMITTEE HAD BEEN ASSURED SOME EIGHT OR NINE REPUBLICAN JUDGES WOULD SOON BE APPOINTED. WHITE SAID HE DID NOT KNOW [redacted] SOURCE BUT HE ASSUMED IT WAS RELIABLE; THE IMPLICATION BEING THAT WHITE WAS NOT AT ALL CONCERNED WHETHER ADMINISTRATION APPOINTED ANY REPUBLICANS OR NOT. [redacted] CHAIRMAN OF STANDING COMMITTEE ON JURISPRUDENCE AND LAW REFORM, ADVISED EDWARDS HIS COMMITTEE WILL PRESENT RESOLUTION TO HOUSE OF DELEGATES WHICH HE EXPECTS WILL BE STRONGLY OPPOSED BY KENNEDY ADMINISTRATION. RESOLUTION URGES ABA TO RECOMMEND CONGRESS ENACT LEGISLATION COVERING CONTINGENCY OF PRESIDENTIAL INABILITY. PROPOSED STATUTE WOULD SET UP SIX MAN PRESIDENTIAL INABILITY COMMISSION CHAIRED BY CHIEF JUSTICE, MAJORITY AND MINORITY LEADERS, HOUSE AND SENATE AND UNITED STATES SURGEON GENERAL. STATUTE ALSO PROPOSES SPECIFIC PROCEDURES FOR TAKING COGNIZANCE OF AND MAKING DETERMINATION RE PRESIDENTIAL INABILITY AS WELL AS DETERMINING LINE OF SUCCESSION OF DUTIES. REPORT ACCOMPANYING RESOLUTION TAKES COGNIZANCE OF PENDING CONSTITUTIONAL AMENDMENT PROPOSED BY ABA NINETEEN SIXTY ON SUBJECT BUT CONTENDS LEGISLATION DESIRABLE WITHOUT AWAITING DELAY WHICH AMENDMENT WOULD MEAN AND FURTHER STATES MANY EXPERTS DOUBT NEED FOR AMENDMENT BEFORE CONGRESS CAN PROVIDE FOR CONTINGENCY OF PRESIDENTIAL INABILITY. REPORT ALSO CRITICIZED EXISTING PRACTICE OF LEAVING SUCH IMPORTANT MATTER TO EXECUTIVE AGREEMENT BETWEEN PRESIDENT AND VICE PRESIDENT. THE COMMISSION WOULD HAVE

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END PAGE FOUR

POWER TO TAKE INITIATIVE IN RECOGNIZING PHYSICAL, MENTAL, OR ANY OTHER TYPE OF PRESIDENTIAL INABILITY AND AUTHORIZE VICE PRESIDENT OR NEXT IN LINE TO IMMEDIATELY ASSUME DUTIES OF OFFICE PENDING FINAL DETERMINATION BY CONGRESS. DEPUTY ATTORNEY GENERAL WHITE IS ALERT TO THIS REPORT BUT IT IS NOT KNOWN WHETHER HE WILL CHALLENGE. DURING AFTERNOON SESSION OF ABA HOUSE, ALFRED J. SCHWEPPE, SEATTLE, WASHINGTON, CHAIRMAN OF THE BILL OF RIGHTS COMMITTEE, STATED TO THE HOUSE THAT HIS COMMITTEE WOULD NOT FILE A REPORT UNTIL THE ANNUAL MEETING, HOWEVER, A QUESTION HAD ARISEN CONCERNING COMMUNIST PARTY LEADER GUS HALL, WHO HAD BEEN REQUESTING PLATFORMS FROM EDUCATIONAL INSTITUTIONS FROM WHICH TO SPEAK CONCERNING THE COMMUNIST PARTY. SCHWEPPE STATED THAT IN ALL BUT ONE INSTANCE, THE EDUCATORS HAD REFUSED HALL AND THAT IN SCHWEPPES PERSONAL OPINION THIS DID NOT CONSTITUTE A VIOLATION OF THE BILL OF RIGHTS AND THAT HALL AS A CONVICTED COMMUNIST WHO HAD TAUGHT AND ADVOCATED THE OVERTHROW OF THE UNITED STATES GOVERNMENT BY FORCE, HAD NO PROTECTION BY THE BILL OF RIGHTS TO BE GIVEN A PLATFORM BY EDUCATIONAL INSTITUTIONS. SCHWEPPE STATED HIS COMMITTEE WILL MAKE A FULL REPORT ON THIS MATTER IN THEIR ANNUAL REPORT. HOUSE OF DELEGATES TENTATIVELY PLANS TO BE FINISHED AT NOON TOMORROW AND EDWARDS AND [redacted] WILL DEPART CHICAGO VIA B AND O RAILROAD AT THREE FORTY PM TOMORROW, ARRIVING WASHINGTON APPROXIMATELY NINE AM WEDNESDAY MORNING.

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END AND ACK PLS

11-39 PM OK FBI WA JHA

TU DIS

cc- Mr. Mohr
Mr. H.L. Edwards

Noted in
Comm. Sect
By

FEDERAL BUREAU OF INVESTIGATION
U. S. DEPARTMENT OF JUSTICE
COMMUNICATIONS SECTION
FEB 16 1962
TELETYPE

Mr. Tolson
Mr. Belmont
Mr. Callahan
Mr. Conrad
Mr. DeLoach
Mr. Evans
Mr. Malone
Mr. Rosen
Mr. Sullivan
Mr. Tavel
Mr. Trotter
Tele. Room
Mr. Ingram
Miss Gandy

URGENT 2-16-62 3-56 PM CST EAH

TO DIRECTOR, FBI

ATTENTION..MR. MALONE

FROM SAC, CHICAGO INSPECTOR H. L. EDWARDS 2P

AMERICAN BAR ASSOCIATION MID YEAR MEETING, CHICAGO. [redacted]
ASSISTANT TO THE EDITOR AND CHIEF, AMERICAN BAR ASSOCIATION ~~PAREN~~ (ABA) ~~ENDPAREN~~ JOURNAL, ADVISED SHE HAD RECEIVED A TELEPHONE CALL FROM [redacted] SUNDAY EDITOR, ATLANTA JOURNAL CONSTITUTION, ATLANTA, GEORGIA, REQUESTING PERMISSION TO PRINT AN ADAPTATION OF THE DIRECTOR-S ARTICLE ~~QUOTE~~ " SHALL IT BE LAW OR TYRANNY " ~~ENDQUOTE~~, WHICH APPEARED IN THE FEBRUARY, SIXTY TWO EDITION OF THE ABA JOURNAL. [redacted] ADVISED [redacted] IT WAS PERMISSIBLE, BUT SHE WOULD PREFER THAT THE PERMISSION COME FROM THE FBI. [redacted] REQUESTED BUREAU TELEPHONICALLY CONTACT [redacted] TODAY AND FOLLOW UP BY TELEGRAM GIVING PERMISSION FOR ADAPTATION OF THE DIRECTOR-S ARTICLE. SUGGEST BUREAU IMMEDIATELY CONTACT [redacted] AND IF NO CIRCUMSTANCES EXIST CONCERNING THE ATLANTA JOURNAL CONSTITUTION WIICH WOULD MAKE IT INADVISABLE ~~AND GRANT~~

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b7C

REC- 49 94-1-3564-1686

END PAGE ONE

3-5 1962

MR. BELMONT FOR THE DIRECTOR

PAGE TWO

PERMISSION FOR PRINTING OF ADAPTION OF DIRECTOR-S ARTICLE, THE

~~THE~~

BUREAU WHEN CONTACTING SHAVIN MAY DESIRE TO OBTAIN COMPLETE FACTS AS TO TYPE OF ADAPTION INTENDED BY [redacted] ADVISE EDWARDS OF ACTION TAKEN SO THAT [redacted] MAY BE PROMPTLY ADVISED.

Mr. Edwards advised 1/29/62 JAM.

END AND ACK PLS

WA 5-03 PM OK FBI WA JA

TU DISC

CC: Mr. Malone & Mr. Edwards

b6
b7C

Edwards

[redacted]

AMERICAN BAR ASSOCIATION JOURNAL
1155 EAST 60TH STREET ○ HYde Park 3-0533 ○ CHICAGO 37, ILLINOIS

Mr. Tolson
Mr. Belmont
Mr. Mohr
Mr. Callahan
Mr. Conrad
Mr. DeLoach
Mr. Evans
Mr. Malone
Mr. Rosen
Mr. Sullivan
Mr. Tavel
Mr. Trotter
Tele. Room
Mr. Ingram
Miss Gandy

21 February 1962

Dear Mr. Hoover:

I have been away from the office for about a week. This has delayed my acknowledgement of your most kind letter of 16 February.

My autographed copy of "Masters of Deceit" reached me yesterday, and I cannot begin to thank you enough for the book, your autograph, and for the very kind things you write about the publication of your article in the Journal, and my editorial.

With much appreciation of your generosity, I am

Sincerely yours,

RB:mlb

Richard Bentley
Editor-in-Chief

Hon. J. Edgar Hoover
Federal Bureau of Investigation
United States Department of Justice
Washington,
D. C.

94-1-369-1687

REC-34
EX.-107
20 MAR 6 1962

EXP-PROC.
FEB 23 1962

OPTIONAL FORM NO. 10

UNITED STATES GOVERNMENT

Memorandum

Tolson
Belmont
Mohr
Callahan
Conrad
DeLoach
Evans
Malone
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Ingram

TO : Mr. Mohr

DATE: 2/27/62

FROM : J. F. Malone

SUBJECT: AMERICAN BAR ASSOCIATION SPECIAL COMMITTEE ON EDUCATION IN THE CONTRAST BETWEEN LIBERTY UNDER LAW AND COMMUNISM

There is attached a booklet entitled "Instruction on Communism and Its Contrast with Liberty under Law" prepared by the above-captioned committee, under the chairmanship of [redacted] of Richmond, Virginia. This booklet sets forth the ABA program in regard to the teaching of communism in the school systems and sets forth the reason for teaching about communism and what is being done in the schools in this regard. It is an extremely well-written booklet and it will be distributed to more than 1400 local and state bar associations throughout the United States. The Bureau was very instrumental in the preparation of this booklet in that, with the Director's approval, the proposed bibliography was reviewed by the Domestic Intelligence Division prior to the printing of the booklet and a number of undesirable books were eliminated. Included were such books as Hendel, The Soviet Crucible; Loucks, Comparative Economical Systems; Schwarz, You Can Trust the Communist; and others. The Bureau also informally gave some help in improving the content and format of this booklet.

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It should be noted that on page 3 is included the statement "See, for the most authoritative documentation of Communist internal subversion, J. Edgar Hoover, Masters of Deceit, Holt, Rhinehart & Winston, Inc., 1958, New York City."

There has already been wide publicity on the booklet and when complete distribution is achieved, it is expected that the booklet will be requested by not only newspapers, but many other educational groups interested in the teaching of communism in the American school system.

1 ENCLOSURE

Additional copies of this booklet are available from the ABA headquarters.

ACTION: None. Informative.

EX. 115
REC. 34
94-1-3611-1188

22 MAR 6 1962

Enclosure
1 - Mr. Sullivan
1 - Mr. DeLoach
TDW:mvd
(4)

ENCLOSURE ATTACHED

66 MAR 13 1962

TWO

CRIME RESEARCH

1688

ENCLOSURE

INSTRUCTION ON COMMUNISM

and

ITS CONTRAST WITH LIBERTY UNDER LAW

INSTRUCTION ON COMMUNISM

and

ITS CONTRAST WITH LIBERTY UNDER LAW

* * *

PROGRAM OF THE AMERICAN BAR ASSOCIATION

(Through its Special Committee on Education in the Contrast Between Liberty Under Law and Communism)

in cooperation with

STATE AND LOCAL BAR ASSOCIATIONS

* * *

AMERICAN BAR ASSOCIATION
1155 East 60th Street
Chicago 37, Illinois

FOREWORD

The American Bar Association (ABA), for the reasons set forth in this pamphlet, seeks to encourage and support appropriate instruction in schools and colleges on the subject of Communism, and especially its contrast with liberty under law.

This policy, deemed important in the national interest, must be implemented primarily by action of state and local bar associations. The purpose of this pamphlet is to describe the program of the ABA and invite the cooperation of the organized bar at the state and local levels. The pamphlet includes the resolution adopted by the ABA House of Delegates in February 1961; summarizes the need for the program and gives specific information as to how state and local bars may cooperate with educational authorities.

Reference is made to the "Checklist for State and Local Bars" contained in Appendix A.

Lawyers and the organized bar have a special responsibility to support this program. The first object of the ABA, as stated in its Constitution, is "to uphold and defend the Constitution of the United States and maintain representative government." If the ambitions of the Communist dictators are realized, our Constitution and representative government in America would be destroyed. In a broader sense, freedom under law would be destroyed everywhere. The preservation of this basic freedom—which embraces all of our cherished freedoms—has traditionally been within the unique competency and responsibility of lawyers and judges.

Although the emphasis in the accompanying pamphlet is on the need for instruction on the Communist threat, the ABA resolution accords equal importance to the instilling of a "greater appreciation of democracy and freedom under law and the will to preserve that freedom." Such an appreciation of our institutions and the will to preserve them will be promoted both by a deeper knowledge of our own history and form of government and by the contrast with the Communist system.

In focusing attention on one neglected area of knowledge, we are not unmindful of the broader educational needs of our time. There have been profound transformations in the world — and particularly in America's position and responsibility—within the past two decades. Much has been said about the obsolescence of curricula in the physical sciences, mathematics and foreign languages — and happily, much is

being done to meet the new and exacting requirements in these subjects. But there must be at least an equal concern for the adequacy of our education in the social sciences. And with it all, there is a compelling need to instill in younger generations a greater understanding of the values of our free society, and with such understanding, the patriotism and determination to preserve them.

Special Committee of the American Bar Association on Education in the Contrast Between Liberty Under Law and Communism

January 1962

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INSTRUCTION ON COMMUNISM

and

ITS CONTRAST WITH LIBERTY UNDER LAW

THE ABA PROGRAM

The House of Delegates of the American Bar Association in February 1961 unanimously adopted significant resolutions dealing with a pressing educational need. In part, these resolutions said:

> ". . . We encourage and support our schools and colleges in the presentation of adequate instruction in the history, doctrines, objectives and techniques of Communism, thereby helping to instill a greater appreciation of democracy and freedom under law and the will to preserve that freedom."[1]

These resolutions were adopted after careful preliminary study and consultation with eminent educational authorities.[2] This program, related specifically to education in schools and colleges, supplements the broader program of the ABA carried on through its Special Committee on Communist Tactics, Strategy and Objectives.

Favorable Public Reaction

Following action by the House of Delegates, a Special Committee of the Association was formed "to observe and encourage progress in this educational program." In the brief period of its existence, the program of the Committee has attracted national attention. It has been well received by educators and school authorities, and the subject of widespread and favorable comment in the press.

Opportunity for Bar Leadership

This is a program of significant public interest. It is sound educationally, and it obviously serves our country and the cause of freedom.

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[1]The full text of the resolutions appears in Appendix B to this pamphlet.

[2]Among the educators consulted in a special conference held in Washington, D. C. in January 1961 were: Dr. Fred C. Cole, William A. Early, Everett N. Luce, Rt. Rev. Monsignor William E. McManus, Dr. James W. Maucker, Dr. Paul Misner, Dr. Thomas G. Pullen, Jr., Dean Frederick D. G. Ribble, Dean John Ritchie, John M. Sexton, William E. Spaulding and R. P. Thomsen.

The organized bar has both an opportunity and a responsibility to implement it.

This pamphlet, prepared as a handbook for state and local bar associations, will examine (i) the need for teaching the facts on Communism, (ii) the extent to which this need is presently being met in our schools, and (iii) the ways in which the organized bar may assist educational authorities in providing appropriate courses or units on this subject.[1]

* * * *

WHY TEACH ABOUT COMMUNISM?

Is the subject of Communism important enough to be taught in our schools and colleges? One would think that this question answers itself. And yet, there are still widely varying points of view—from the few who still think there should be a law against teaching anything about Communism to those who consider that it is the single most important subject.

Gravest Problem of Our Time

But whatever one's view may be as to teaching in depth the truth about Communism, few would deny that it is a new and fanatical movement, with characteristics of repression and tyranny almost unintelligible to the American mind; that in less than half a century, and mainly within the past sixteen years, this movement has already gained control of one-third of the world's people; and that it has the will, and avidly seeks the final means, to destroy freedom everywhere.

Likewise, few would deny that the gravest problems of our time result, directly or indirectly, from the International Communist movement as led and directed by the Soviet and Chinese dictators, and from their determination to impose Communist rule throughout the world.

As this pamphlet is being written, the world-wide threat of the Communist movement has focused primarily on Berlin. Impatient Soviet leaders, pressing for a major victory there, have added to the false face of "peaceful coexistence" an attempt to terrorize humanity by atomic blackmail. When this crisis is resolved, it will be followed by others—as the Communists choose to create them—all as calculated steps in their drive for world domination.[4]

These are the harsh and almost incredible facts of the mid-twentieth century. This is the situation which has brought the world perilously close to the brink of destruction—a situation which might well have been avoided had the free people of America and throughout the world comprehended in our time the truth about Communism.

National Self-Interest

Belatedly, the need for thorough education on the Communist movement is now becoming recognized.[5] There are, broadly speaking, two underlying reasons for this need. The first is national self-interest and the very survival of freedom. As Dr. Sidney Hook recently said:

> "In order to survive, the free world must acquire a more sophisticated knowledge of Communism . . . The task must be shouldered primarily by scholars and educators . . . on the appropriate levels of our educational system . . ."[6]

America, the champion of freedom under law and the only nation strong enough to oppose Communist power, is the prime target of the Soviet Union and the world-wide conspiracy which it directs. At best, America faces many years—if not many decades—of continued conflict with this determined enemy. There are no easy solutions or short cuts to dramatic "victory." This is a new type of world conflict, little under-

[1] Although the ABA Resolutions encompass education at all levels, this pamphlet is directed primarily to instruction in the public and private secondary schools. The need is certainly no less in the colleges, but the greater opportunity for service by the organized bar at this time is believed to be at the secondary level—working directly with state and local boards of education. But emphasis on the secondary schools should not preclude encouragement of college faculties and trustees to move vigorously to strengthen their curricula as recommended herein.

[4] Although this pamphlet emphasizes the grave external threat to our country, a study of the facts as to Communist tactics and strategy will show the importance attributed by Red leaders to internal subversion in America and other western countries. The Communist Party, USA, is the official arm of the International Communist movement within the United States. Taking astute advantage of the very freedoms which they seek to destroy, the CPUSA and its adherents and dupes do all that they can to aid and abet the Communist conspiracy. See, for the most authoritative documentation of Communist internal subversion, J. Edgar Hoover, *Masters of Deceit*, Holt, Rhinehart & Winston, Inc., 1958, New York City.

[5] As early as 1952 the National Education Association adopted a resolution saying, in part: "As a measure of defense against our most potent threat, our American schools should teach about Communism and all forms of totalitarianism, including the principles and practices of the Communist Party in the United States." *The New York Times*, July 5, 1952. But despite this 1952 resolution, relatively few separate units or courses on Communism have been included in school curricula.

[6] Dr. Sidney Hook (head of Philosophy Department, New York University), *Saturday Review*, December 31, 1960.

stood by our sheltered and generous people. It is clear that the wisdom, patience and will of our people and leaders will be sorely tested.[7]

As decisions in a democracy derive basically from the people, and must be supportable in public debate and a free press, it is obvious that our people—including those in schools and colleges—must understand the nature and seriousness of the Communist threat. This means more than an uncomfortable awareness that Communism threatens freedom and our country. It means a great deal more than creating feelings of fear, antipathy or hatred. The real need is for widespread knowledge in some depth of the history, doctrines, objectives and techniques of the Communist movement.

There is also a need for a more thorough understanding of our own system of constitutional government and freedom under law. This kind of understanding will be facilitated by the contrast with the Communist system.

Weakness in Struggle with Communism

The weakness of our education in these areas is increasingly a subject of concern. President Kennedy has said:

> "It is most urgent that the American educational system tackle in earnest the task of teaching American youth to confront the reality of totalitarianism in its toughest, most militant form—which is Communism—with the facts and values of our American heritage."

Former President Eisenhower expressed a similar view:

> "Competition for men's minds begins when they are students. This is when they must be taught to discern between the American form of government and the Soviet form."[8]

The New York Times has commented editorially on the lack of understanding of Communism:

> "One of our major weaknesses in the struggle with Communism is the lack of adequate understanding of the challenge which Communism presents." (August 22, 1960)

Allen W. Dulles was one of the first national leaders to emphasize the need to correct this weakness. He said:

> "We need, far and wide in this country, more education on the whole history of the Communist movement. . . .
>
> "There is a real urgency to build up our knowledge [through education] on the entire background and nature of the Communist thrust against our civilization."[9]

Thus, in brief, the first and overriding reason for the program of the American Bar Association is that it is urgently in the national interest. Indeed, it relates to the most basic interest of all—perhaps survival itself, and certainly survival of freedom and our form of government.

Sound Educational Requirement

But even if one lived in a so-called "non-aligned" nation (and believed, naively, that neither survival nor freedom was at stake), Communism would still be an appropriate subject for education. The history of much of this century is incomprehensible without a considerable knowledge of the Communist movement and its history, doctrines, objectives and tactics.

There is, therefore, a second reason for including this subject in the curriculum of schools and colleges. It is a sound educational requirement entirely without regard to other considerations.

And here, the importance of viewing this particular program as education—rather than some form of counter-propaganda—should be emphasized. In America, the educational process is closely and properly related to a principal objective of our society—freedom of the individual. This obviously includes freedom of the mind, and this in turn includes freedom and capacity to think and make rational choices. In the light of these great traditions, the subject of Communism (like any other subject) should be taught factually, thoroughly and objectively. This is, indeed, in our national interest as American students jealously reserve to themselves the right to make rational choices, and they would be the first to resent—or later to be disillusioned by—teaching which departs from these traditional standards.

There is no danger in teaching the truth about Communism. As Mr. Dulles wisely said:

> "We should not be afraid to teach the subject. A history of Communism and all of its works would bear its own indictment of the system. Let the facts speak for themselves."

* * * *

[7]The prospect is for an indefinite continuation of the misnamed "Cold War" on its complex and varied fronts. Indeed, it is *warfare*—Communist style—more difficult to combat and more dangerous to our country than any other war in American history. See Strausz-Hupe, Kintner, Dougherty and Cottrell, *Protracted Conflict*, a Foreign Policy Research Institute Study, Harper & Bros., N.Y., 1959; Harry and Bonaro Overstreet, *The War Called Peace*, W. W. Norton & Co., N.Y., 1961 and *What We Must Know About Communism*, W. W. Norton & Co., 1958.

[8]Statement to conference on the Foundation for Religious Action in the Social and Civil Order, September 1956. *The New York Times*, September 8, 1956.

[9]Allen W. Dulles, address before Veterans of Foreign Wars, Detroit, August 22, 1960.

WHAT IS BEING DONE IN THE SCHOOLS?

As the need is evident, it is important to know with reasonable accuracy what is actually being done to meet it.[10]

Few Separate Units or Courses

The Legislative Reference Bureau of the Library of Congress made a survey in early 1960 at the high school level, using a carefully drawn questionnaire sent to the school superintendents in the 58 largest American cities.[11] Replies, from 54 of the cities surveyed, showed a conspicuous absence of formal units or courses on the subject of Communism. Only two cities had separate semester courses and one of these was merely an elective in one high school on Russian history. Nearly two-thirds of the cities also said there was no requirement that any specified time within some other course or courses be devoted to study in this area.

The ABA conducted its own survey in the spring of 1961, with similar results. Of the 278 communities which responded to the questionnaire, nearly three-fourths reported no separate units or courses, and in many others it was evident that the effort is in fact sporadic and merely incidental to other instruction.

The Prevailing Pattern

The high school curriculum pattern in the social sciences generally found today would not be unfamiliar to those who attended school in the 1920s and '30s. There are much the same type of courses on history and government of the United States, and there are survey courses (often electives) on world history and comparative government. It is in these courses, rather than in separate units or courses, that the high school students of America receive a limited amount of instruction on Communism and the leading exponents thereof, the Soviet Union and Red China. And this instruction is scattered through several courses over the high school years with little coordination or concentration.

[10]This portion of the pamphlet is directed to the situation in the secondary schools, where certain information is available. There is less information as to what is being done in the colleges, although it is believed that there are relatively few separate undergraduate courses on Communism in our colleges (Allen Dulles, address before Veterans of Foreign Wars, August 22, 1960). A conspicuous example of what can be done at the college level is the required course at the University of San Francisco on "The Philosophy, Dynamics and Tactics of World Communism." At the graduate level in some universities, the situation is more encouraging. Examples are the Russian Research Center of Harvard University, the Hoover Institution of War, Revolution and Peace of Stanford University and the recently created Research Institute on Communist Affairs at Columbia University.

[11]This interesting survey was conducted at the request of Senator Kenneth B. Keating of New York.

No criticism of these courses is intended or implied. Much of their content is a basic part of high school education and a prerequisite to the thorough study of Communism. But such courses are not designed to, and do not meet, the need in question.

The Need for Separate Units or Courses

The position of the ABA Committee is that these existing courses should be supplemented by separate courses or units dealing with Communism in depth, and specifically contrasting its doctrines, its methods and its objectives with the American system of freedom under law.

The essential point is to accord this subject the importance and emphasis which it so urgently deserves. The Committee believes that this can best be accomplished by specific and separate courses or units. While the duration of these may vary, there is sound reason to believe that a full half-year course (i.e. one semester) is necessary for the most effective treatment of this important and complex subject. It will be remembered that many subjects, less exacting in mental discipline and certainly less significant to national survival, are widely taught for full semesters or longer.

But in view of obvious difficulties with already over-crowded curricula, many educators consider that it may be necessary to think initially in terms of establishing separate units of four to six weeks within the framework of existing senior high school courses in history and government.[12] It is hoped that such limited units will be expanded as rapidly as possible to accord this subject the emphasis it deserves.

Encouraging Recent Developments

Although the over-all picture (outlined above) is one of widespread need for prompt and constructive action, there is heartening evidence of recent progress. An increasing public awareness of the need is becoming evident, and this is encouraging educational authorities and organizations to act. Many educators have hesitated in the past only because of apprehension as to public misunderstanding. Happily, this situation is now changing.

A number of localities have already manifested leadership in commencing separate courses or units of instruction.[13] Boston, Dallas, Indi-

[12]Although designated as "units," these would be separate and intensive courses for the prescribed periods of time.

[13]In Richmond, for example, a separate six weeks unit on Communism was presented during the 1960-61 session to high school seniors in government and history courses. Tried as an experiment, the program aroused the interest and approval of faculty, pupils and parents; was endorsed by the press and is now being prepared as a permanent addition to the Richmond high school curriculum.

anapolis, New Bedford (Massachusetts) and Richmond (Virginia) are among the cities which have led in initiating such instruction. No doubt there are others with existing programs, and a number of cities have announced plans for future programs.[14]

A recent development of interest has been action by several state legislatures requiring or approving education on the contrast between Communism and the American system. Florida and Louisiana have made this mandatory. The New York Act, effective in September 1962, is permissive.[15]

The action in Louisiana is of interest to bar associations, as it resulted in major part from the initiative and work of a committee of the Louisiana State Bar Association. The result is that a course entitled "Americanism vs. Communism" is now required in all high schools in that state, and the Louisiana Board of Education has prepared a pamphlet containing an outline of materials and bibliography for such course.

The foregoing are cited merely as examples of the recognition by communities and secondary school educators that something must be done to meet this educational void. Other communities have acted, and many have programs under consideration. It is hoped that the organized bar can be of assistance in bringing these programs to fruition, as well as in stimulating action in the thousands of schools which have no programs in this area.

Happily, the organized bar will not be alone in this undertaking. It is understood, for example, that the National Education Association, in cooperation with the American Legion, is now working on a program to encourage the teaching of the facts about Communism.[16]

This was also the subject of a successful conference in Chicago in April 1961 sponsored by the National Military, Industrial and Education Conference. Outstanding leaders from education, business and government met for three days and considered ways and means of stimulating more effective education with respect to the nature of Communism and its challenge to America and freedom.

Scholastic Magazines, a widely known magazine for high school students, commenced in November 1961 a series of fifteen articles on "What You Should Know about Communism and Why." It is planned that these will later be edited and printed as a text for classroom use.[17]

* * * *

A PROGRAM OF ACTION BY THE ORGANIZED BAR

It is thus evident that the resolution of the ABA was timely, and that the organized legal profession of America can now render significant public service by acting vigorously to encourage and assist educational authorities.

Appointment of Special Committees

A first step, recommended by the ABA, is the appointment of special committees which parallel the general purpose of the ABA Special Committee. This program would receive maximum impetus if every state and local bar association were to appoint such a committee, comprised in each case of lawyers widely respected for their judgment and devotion to civic duty. (It hardly need be said that the success of this program will depend in major part upon the quality and standing of these committees.)

Such committees should first ascertain, carefully and through the appropriate educational authorities, the extent to which specific units or courses on Communism are being taught in the particular state or locality.[18] As noted above, the surveys by the Library of Congress and the ABA indicate that in 1960-61 there were no such specific programs of instruction in the great majority of our states and localities.

Educational Authorities Welcome Interest

Based on experience to date, the educational authorities will usually welcome the interest and cooperation of such bar committees. In most situations where appropriate action has not already been taken or initiated, the bar committees will find that the state and local school

[14]For example, the Seattle School Board, after careful study by a special committee, has recently (fall of 1961) approved the inclusion in existing courses of major materials and instruction on Communism at several grade levels from the seventh to the twelfth grades.

[15]Fla., Acts of 1961, Ch. 61; La., Acts of 1960, Resolution No. 54; N. Y. Laws, 1961, Ch. 662. The Florida statute, approved May 27, 1961, is set forth in Appendix C to this pamphlet as one example of legislative action. Legislative action is usually not necessary, and may not in all cases be the best initial approach. Normally, state and local boards of education have the requisite authority. For example, the Virginia State Board of Education, by resolution in April 1961, authorized units on Communism commencing with 1961-62 session. The California Board of Education has appointed an advisory committee to recommend an appropriate program.

[16]Described briefly in *The PTA Magazine*, September 1961, p. 17.

[17]In announcing this series, the editors said: "America's youth must know the facts about Communism . . . [and] its challenge to the free world. But even current text books are outdated."

[18]The appropriate educational authorities at the state level will normally include the state superintendent of education and the state board of education. At the county and city level, these will include the superintendent of schools and the local school board. The approach by a bar committee should be tactful and in full recognition that the responsibility for action lies with the educational authorities.

authorities are not unaware of the need. In fact, the need is now generally recognized by educators. The failure to meet it has usually resulted from doubts and misgivings by the superintendents and school boards as to how to deal with problems involved.

Specific Problems

These problems include (i) the general public unawareness of the extent of the need for instruction on Communism; (ii) in view of this unawareness, doubt in the minds of the educational authorities as to community or public acceptance of such instruction; (iii) the lack of adequately trained teachers; (iv) the belief that suitable teaching materials are not available; and (v) the already overcrowded condition of school curricula, making it appear difficult to replace—even for a six weeks unit—anything presently being taught.

A bar association committee can be of significant help with most of these problems.

Public Acceptance

Public unawareness of the need for instruction in this area and the possibility of public misunderstanding are problems well within the competence of the organized bar. Action by the bar to acquaint the public with the need can take many forms. It can start with resolutions of the state and local bar associations. At the proper time, and working closely with the school authorities, there can be public testimony before the state board of education or local school board, or indeed before state or local legislative committees or bodies. Also, there can be talks before parent-teacher associations and other civic groups.

Relatively few persons, including lawyers, have the requisite knowledge in depth to speak intelligently on the subject of Communism, and bar committees should exercise care and restraint in purporting to be experts. But no such depth of knowledge is required to speak in favor of providing adequate education on the Communist movement and its contrast with freedom under law.

Forums and Institutes

An effective way to develop public support for this program is through forums and institutes at state and local bar meetings. The audiences reached would be lawyers—rather than the public generally—but if such institutes are properly conducted, with speakers carefully chosen, they should stimulate lawyers to assume active roles in creating public awareness and acceptance.

An excellent example of this type of constructive bar activity was the forum conducted by the State Bar of Texas at its annual meeting in July 1961. A half-day program was devoted to the subject of "Education for Democracy," with emphasis on the urgent need for adequate education on the history, objectives and techniques of Communism. The success of the forum was assured by the quality of its participants.[19]

The Special Committee of the ABA on Communist Tactics, Strategy and Objectives has inaugurated a series of institutes intended primarily to bring nationally known experts before audiences of professional and community leaders. State and local bar committees, in the areas where these institutes are held, may find them helpful in stimulating interest in providing appropriate education in the schools and colleges.

Teaching Materials

One of the more perplexing problems is the difficulty of locating suitable teaching materials. Although the standard textbooks widely used in the high school teaching of history and government contain certain information on Communism, and many of these make brief comparisons of Communism with the American system, such texts are designed for other purposes. Indeed, there is a fairly widespread belief among educational authorities that there are no textbooks now available in this area.

But there is in fact a good deal of material, including at least one book written specifically as a text.[20] As set forth in the appended bibliography, there is a great wealth of literature on Communism (and the Soviet Union) by foreign and American authors, including some superior studies made by agencies and committees of the Federal Government. Film strips and moving pictures are also available.

The difficulty is that little of this great mass of material is presently in convenient form for classroom use. Much of it is excellent and some is indispensable for reference by both teachers and pupils, but there is still a need for more effective classroom material—including a condensed text designed for a unit of several weeks intensive study.

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[19]The principal address was made by E. Dixie Beggs, representing the American Bar Association, and panel discussion members included Frank D. Stubbeman, Chairman of the Texas Bar Committee on American Citizenship, Tom Ramey, former Chairman, Texas Educational Commission, R. L. Dillard, Jr., President of the Dallas School Board, Abner McCall, President, Baylor University and Thornton Hardie, President, Board of Regents, University of Texas.

[20]See Colegrove, *Democracy Versus Communism*, Second Edition (1961), (D. Van Nostrand Co., Inc., Princeton, N.J.).

Special Outlines and Materials

In view of this situation, the customary approach in preparing a unit or course on Communism is to develop an outline.[21] This is primarily for the guidance of the teacher, and must be used in conjunction with selected reference material.

Although a number of school divisions have prepared such outlines there does not appear to exist, at this time, any central pooling of information on these outlines and related materials.[22] This is essentially a function which the proper educational organizations will no doubt assume, but until materials are generally made available through educational channels the organized bar may be helpful.

The school divisions which have pioneered with units or courses on Communism are usually quite willing to share their experience with others. Requests may be made directly to the superintendent of schools in the cities above mentioned (*supra* pp. 7, 8) for copies of the outlines and materials used. In certain instances, the ABA may be able to assist in suggesting sources of materials. Requests may be made directly to the ABA Committee (1155 East 60th Street, Chicago 37, Illinois) for such assistance or for additional copies of this pamphlet containing the ABA bibliography.[23]

Teacher Training

There are two problems here, namely, (i) the in-service training of teachers already in the school systems and (ii) the training of future teachers in the social science courses offered in the "teachers' colleges." The importance of competent and thoroughly prepared teachers can hardly be over-emphasized.

Again, this is a responsibility of the educational authorities. But it is believed that state and local bar committees can be helpful. A great deal of attention is currently being devoted to the continuing education or, as it is usually called, in-service training of teachers in various subjects. Most state boards of education and local school boards now provide summer institutes for teachers as well as local programs of in-service teacher training during the school year.

[21]The preparation of such an outline is a task for qualified educational personnel. But committees of outstanding citizens—perhaps organized by the local bar association—can be helpful in reviewing and consulting. Approval of the outline by such a committee also promotes public acceptance.

[22]One of the best sources is *The Institute of American Strategy*, 140 South Dearborn Street, Chicago, which has reproduced in a useful booklet materials from New Bedford, Indianapolis, Boston, Chicago and the state of Pennsylvania.

[23]See Appendix D. The American Bar Association Committee does not endorse any particular outline, text or reference material or teaching material. Its function, in this respect, is merely to collect and disseminate information which must be evaluated by the appropriate state and local educational authorities.

All of these afford opportunities for the inclusion of appropriate instruction of the teachers who will give the new units or courses on Communism, and state and local bar committees can encourage and promote this activity. Likewise, such committees can ask that the curriculum of the teachers' colleges be strengthened to assure that graduates in the social sciences are specifically and thoroughly prepared to teach this subject, and to contrast it with the American system of freedom under law.

Private and Parochial Schools

The program of the ABA applies with equal urgency to the private and parochial schools throughout the country. The available evidence indicates that in general they have essentially the same needs and problems as do the public schools.[24] While controlled and operated privately, rather than through publicly elected or appointed officials and bodies, there is every reason to believe that these schools will welcome the type of cooperation and assistance from state and local bar committees described above.

Word of Caution

It must be remembered that this is a program in education, undertaken in the national interest and in the belief that broader knowledge of the Communist conspiracy will assure its ultimate defeat. But in the implementation of this program, great care must be exercised by bar committees and educational authorities to avoid—in fact and in appearance—all implications of domestic politics. As the subject of Communism tends to evoke extreme and emotional reactions, special care must also be exercised to avoid extremist influence of both the right and left, and to refrain from branding as "pink" or "communist" differing or unpopular views.

Much of the extremism—and also the naivete so often found on this subject—stems from ignorance and lack of understanding. One of the purposes of this program is to dispel this ignorance, and to focus informed attention on the real enemy of freedom—the International Communist movement and its imminent threat to our country. This must, of course, be done with determination and conviction, but also factually and with due regard to the Bill of Rights and standards of fairness which are the hallmark of the freedom under law we seek to defend.

[24]Culver Military Academy, Culver, Indiana and Episcopal High School, Alexandria, Virginia are examples of preparatory schools which have specific courses. Catholic schools in particular have shown a commendable awareness and leadership in this area.

Lenin, the principal architect of the world-wide Communist movement, wrote:

> "Give us the child for 8 years, and it will be a Bolshevik forever . . .
> He who has the youth, has the future."

In keeping with Lenin's dictum, the Soviet Union—and indeed every Communist country—employs education as a prime tool of the state. In such countries, the sole purpose of education at all levels is to further the Communist goal of enslaving the world.

Obviously, we should never subvert American schools and colleges in this way. But in our anxiety to see that education properly serves the needs of individuals in a free society, we must never lose sight of a paramount duty—namely, that education must adequately prepare and train our people to understand and appreciate our form of government, to comprehend that Communism gravely threatens America and freedom everywhere and to be willing to serve and defend America—the great country upon which the entire free world depends.

Leaders of American education at all levels are now anxious to assume this imperative obligation in the interest of our country—and to preserve freedom. The organized bar must accord them every support.

Special Committee of American Bar Association
On Education in the Contrast Between Liberty
Under Law and Communism

January 1962

CHECKLIST
for
STATE AND LOCAL BARS

NOTE: The purpose of this Appendix is to provide state and local bar committees with a checklist for the principal types of action which may be taken at the high school level. Much of this checklist is readily adaptable to the encouragement of action by colleges. Details are contained in the pamphlet itself, especially under the caption "A Program of Action by the Organized Bar."

1. *Appointment of Special Committee*
   a. Lawyers of high standing and recognized judgment are essential.
2. *Determination of Facts in Particular State or City*
   a. Committee's first function is to determine accurately, through educational channels, the extent to which units or courses are already being taught.
   b. Establish friendly, cooperative relationship with school authorities.
3. *Resolution by the Bar*
   a. If need for action is found to exist, resolution by the bar association may be helpful (see Appendix B for ABA resolution).
4. *Development of Public Acceptance*
   a. Work closely with school authorities.
   b. Public testimony before state board of education or local school board.
   c. Enlist cooperation of press.
   d. Talks before PTA and civic groups (speakers to be chosen carefully on basis of knowledge, judgment and standing in community).
   e. If legislative action is desired, bar committee can support.
5. *Bar Association Institutes*
   a. Subject is suitable for forums or institutes at a bar meeting.
   b. Success depends upon careful preparation and quality of participants (see pamphlet for Texas example, *supra*, pp. 10, 11).
6. *Teaching Materials*
   a. Make ABA bibliography available to school authorities.
   b. If desired by educational authorities, obtain outlines from other cities (see pamphlet, *supra*, p. 12).

c. Encourage formation of (i) committee of teachers to develop materials and (ii) committee of leading citizens to cooperate as means of promoting community acceptance (if desired by school authorities).

7. *Teacher Training*
   a. Responsibility of school authorities, but bar committee may be helpful.
   b. Highly qualified teachers are essential, and thorough in-service training should be encouraged.

8. *Special Points to Remember*
   a. Community standing of bar committee is important.
   b. As this is a program in education, the highest quality of instruction must be encouraged.
   c. Ultimate responsibility must rest with educational authorities. Function of bar committee is to stimulate, assist and cooperate.

* * * *

The text of the pamphlet contains additional information on all of the foregoing items. The Special Committee will cooperate with, and furnish information to, any state or local bar committee.

PREAMBLES AND RESOLUTION

by

House of Delegates of American Bar Association

(February 1961)

WHEREAS, We recognize the urgency of instructing all Americans in the full scope and aims of Communism and the increasing threat it poses to the free world and to our democracy and freedom under law, to the end that an informed citizenry may successfully defend and preserve our American heritage; and

WHEREAS, Our educational institutions, both public and private, especially at the secondary, college, and adult levels, afford the best means of developing sound programs of instruction in this area; and

WHEREAS, These institutions and educators, in accepting this responsibility, must be given public understanding and support;

NOW, THEREFORE, BE IT RESOLVED by the American Bar Association:

(1) That through our members and the cooperation of state and local bar associations we encourage and support our schools and colleges in the presentation of adequate instruction in the history, doctrines, objectives and techniques of Communism, thereby helping to instill a greater appreciation of democracy and freedom under law and the will to preserve that freedom;

(2) That to insure the highest quality of instruction in this area, those responsible for our educational programs be urged to provide the appropriate training of instructors and to stimulate the production of scholarly text books and other teaching materials of professional excellence;

(3) That we seek to implement this resolution through a special committee of seven members to observe and encourage progress in this educational program and to render annual reports to the Association, the committee to include the chairmen of our Committees on American Citizenship, the Bill of Rights, and Communist Tactics, Strategy and Objectives, and one or more of our members who are educators.

NOTE: This is submitted as one example of legislative action. The ABA Committee does not recommend or endorse any form of legislation, nor take a position as to whether legislation is necessary or desirable. Decisions on these matters must be made at the state level.

FLORIDA STATUTE

Chapter 61-77

House Bill No. 26

AN ACT making a Legislative finding of fact relating to Communism, requiring the teaching of a course of study in the public schools entitled "Americanism versus Communism;" providing a minimum number of hours of instruction; requiring the State Board of Education and the State Textbook Committee of the State of Florida to provide textual materials and setting up standards for the selection of such materials; prohibiting the presentation of Communism as preferable to the system of constitutional government of the United States of America; repealing all laws or parts of laws in conflict herewith, and providing for an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. The Legislature of the State of Florida hereby finds it to be a fact that (a) the political ideology commonly known and referred to as Communism is in conflict with and contrary to the principles of constitutional government of the United States of America as epitomized in its National Constitution, (b) the successful exploitation and manipulation of youth and student groups throughout the world today are a major challenge which free world forces must meet and defeat, and (c) the best method of meeting this challenge is to have the youth of the state and nation thoroughly and completely informed as to the evils, dangers and fallacies of Communism by giving them a thorough understanding of the entire Communist Movement, including its history, doctrines, objectives and techniques.

Section 2. The public high schools shall each teach a complete course of not less than thirty (30) hours, to all students enrolled in said public high schools entitled "Americanism versus Communism."

Section 3. The course shall provide adequate instruction in the history, doctrines, objectives and techniques of Communism and shall be for the primary purpose of instilling in the minds of the students a

greater appreciation of democratic processes, freedom under law, and the will to preserve that freedom.

Section 4. The course shall be one of orientation in comparative governments and shall emphasize the free-enterprise-competitive economy of the United States of America as the one which produces higher wages, higher standards of living, greater personal freedom and liberty than any other system of economics on earth.

Section 5. The course shall lay particular emphasis upon the dangers of Communism, the ways to fight Communism, the evils of Communism, the fallacies of Communism, and the false doctrines of Communism.

Section 6. The State Textbook Committee and the State Board of Education shall take such action as may be necessary and appropriate to prescribe suitable textbook and instructional material as provided by state law, using as one of its guides the official reports of the House Committee on Un-American Activities and the Senate Internal Security Sub-Committee of the United States Congress.

Section 7. No teacher or textual material assigned to this course shall present Communism as preferable to the system of constitutional government and the free-enterprise-competitive economy indigenous to the United States of America.

Section 8. All laws or parts of laws in conflict with this Act are hereby repealed.

Section 9. The course of study hereinabove provided for shall be taught in all of the public high schools of the state no later than the school year commencing in September 1962.

Approved by the Governor May 27, 1961.

Filed in Office Secretary of State May 27, 1961.

BIBLIOGRAPHY

(The books and publications listed below have been selected after a review of various available bibliographies in this field. This is not a complete listing, and the inclusion of a book or publication herein does not indicate approval or endorsement thereof by the ABA. Each school or organization using this bibliography should make its own evaluation of the materials listed.)

I. BOOKS

Almond, G. A., *The Appeals of Communism.* Princeton: Princeton University Press, 1954.

Caldwell, John C., *Communism in Our World.* New York: John Day Company, 1956.

Campbell, Robert W., *Soviet Economic Power.* Cambridge: Houghton Mifflin Company, 1960.[1]

Chambers, Whittaker, *Witness.* New York: Random House, 1952.

Colegrove, Kenneth, *Democracy Versus Communism.* 2nd ed. New York: D. Van Nostrand Company, Inc., 1961.[1]

Cronyn, George W., *A Primer on Communism.* rev. ed. by Howard Oiseth. New York: E. P. Dutton and Company, Inc., 1960.[1]

Crossman, Richard, (ed.), *The God That Failed.* New York: Bantam, n.d.[2]

Dallin, David J., *The Changing World of Soviet Russia.* New Haven: Yale University Press, 1956.

Djlas, Milovan, *The New Class.* New York: Praeger, 1957.[1]

Ebenstein, William, *Today's Isms: Communism, Fascism, Socialism, Capitalism.* 3rd ed. Englewood Cliffs: Prentice-Hall, 1961.[2]

Fairchild, Fred R. and Thomas J. Shelly, *Understanding Our Free Economy: An Introduction to Economics.* 2nd ed. New York: D. Van Nostrand Company, Inc., 1956.

Fisher, Marguerite J., (ed.), *Communist Doctrine and the Free World.* Syracuse: Syracuse University Press, 1952.

Golob, Eugene O., *The "Isms:" A History and Evaluation.* New York: Harper and Bros., 1954.

Hahn, Walter F. and John C. Neff, *American Strategy for the Nuclear Age.* New York: Doubleday, 1960.[2]

Hoover, J. Edgar, *Masters of Deceit.* New York: Holt, 1958.[1]

Hunt, Robert N. Carew, *Marxism: Past and Present.* New York: Macmillan, 1955.

[1]Available in paperback edition.
[2]Available only in paperback edition.

Kennan, George F., *Russia and the West Under Lenin and Stalin.* Boston: Little, Brown, 1961.

Ketchum, Richard M., (ed.), *What Is Communism?* New York: Dutton, 1955.

Kintner, William R., *The Front Is Everywhere: Militant Communism in Action.* Norman: University of Oklahoma Press, 1954.

Kulski, W. W., *The Soviet Regime: Communism in Practice.* 3rd ed. Syracuse: Syracuse University, 1958.

Lippmann, Walter, *The Communist World and Ours.* Boston: Little, Brown, 1959.

Marx, Karl, *Capital and Other Writings.* New York: Modern Library, n.d.

Mayo, Henry B., *An Introduction to Democratic Theory.* New York: Oxford University Press, 1960.[1]

Meyer, Alfred G., *Communism.* New York: Studies in Political Science, Random House, 1960.[2]

Miller, Raymond W., *Can Capitalism Compete?* New York: Ronald Press, 1959.

Moorehead, Allan, *The Russian Revolution.* New York: Harper and Bros., 1958.[1]

Orwell, George, *Animal Farm.* New York: Harcourt, Brace, 1954.[1]

Orwell, George, *Nineteen Eighty-Four.* New York: Harcourt, Brace, 1949.[1]

Overstreet, Harry A. and Bonaro, *The War Called Peace: Khrushchev's Communism.* New York: Norton, 1961.

Overstreet, Harry A. and Bonaro, *What We Must Know About Communism.* New York: Norton, 1958.[1]

Rostow, W. W. and others, *The Dynamics of Soviet Society.* New York: Mentor, n.d.[2]

Salvadori, Massimo, *Economics of Freedom: American Capitalism Today.* New York: Doubleday & Company, Inc., 1959.

Salvadori, Massimo, *The Rise of Modern Communism.* New York: Holt, 1952.[1]

Schapiro, Leonard, *The Communist Party of the Soviet Union.* New York: Random House, 1960.

Schumpter, Joseph A., *Capitalism, Socialism and Democracy.* 3rd ed. New York: Harper and Bros., 1950.

Schwartz, Harry, *Russia's Soviet Economy.* 2nd ed. Englewood Cliffs: Prentice-Hall, 1954.[1]

Seton-Watson, Hugh, *From Lenin to Khrushchev: The History of World Communism.* New York: Praeger, 1960.[1]

Shub, David, *Lenin.* New York: North American Library, Mentor, n.d.[2]

Strausz-Hupe, Kintner, Dougherty and Cottrell, *Protracted Conflict,* a Foreign Policy Research Institute Book. New York: Harper & Brothers, 1959.

[1]Available in paperback edition.
[2]Available only in paperback edition.

II. GOVERNMENT PUBLICATIONS[3]

Library of Congress, Legislative Reference Service. *Khrushchev's Speech of January 6, 1961.* A summary and interpretive analysis. Washington: Government Printing Office, 1961.

Library of Congress, Legislative Reference Service. *Who Are They?* 10 Parts. [Especially pertinent are: Part 1, "Khrushchev and Bulganin (U.S.S.R.);" Part 2, "Mao Tse-tung and Chou En-lai (Communist China);" and Part 10, "Karl Marx."] Prepared at the request of the Committee on Un-American Activities, House of Representatives, United States Congress. Washington: Government Printing Office, 1959.

United States Congress, House of Representatives, Committee on Un-American Activities. *Facts on Communism.* Two volumes. Volume I, *The Communist Ideology;* Volume II, *The Soviet Union from Lenin to Khrushchev.* Washington: Government Printing Office, 1960.

United States Congress, Senate, Committee on the Judiciary. *Communist and Workers' Parties' Manifesto Adopted November-December 1960—Interpretation and Analysis.* Testimony presented by Jay Lovestone to the Subcommittee to Investigate the Administration of the Internal Security Act and other Internal Security Laws. Washington: Government Printing Office, 1961.

United States Congress, Senate, Committee on the Judiciary. *Khrushchev's Strategy and Its Meaning for America.* A study presented by the Subcommittee to Investigate the Administration of the Internal Security Act and other Internal Security Laws. Washington: Government Printing Office, 1960.

United States Congress, Senate, Committee on the Judiciary. *Expose of Soviet Espionage.* Prepared by the Federal Bureau of Investigation for the Subcommittee to Investigate the Administration of the Internal Security Act and other Internal Security Laws. Washington: Government Printing Office, 1960.

United States Congress, Senate, Committee on the Judiciary. *Contradictions of Communism.* A report presented by the Subcommittee to Investigate the Administration of the Internal Security Act and other Internal Security Laws. Washington: Government Printing Office, 1959.

United States Congress, Senate, Committee on the Judiciary. *The Revival of the Communist International and Its Significance for the United States.* A study presented by the Subcommittee to Investigate the Administration of the Internal Security Act and other Internal Security Laws. Washington: Government Printing Office, 1959.

United States Department of Health, Education and Welfare. *Soviet Education Programs.* Washington: Government Printing Office, 1960.

United States Department of Health, Education and Welfare. *Soviet Commitment to Education.* Report of the U.S. Education Mission to the U.S.S.R. Washington: Government Printing Office, 1959.

United States Department of State. *Soviet World Outlook.* A Handbook of Communist Statements. Washington: Government Printing Office, 1959.

[3]This is but a partial list of the numerous publications on this subject published by the United States Government, many of which are excellent. A complete list can be obtained by writing the Superintendent of Documents, United States Government Printing Office, Washington 25, D. C.

III. OTHER PUBLICATIONS

American Bar Association Special Committee on Communist Tactics, Strategy and Objectives, August, 1961, Report, and May 1, Report entitled *Peaceful Co-Existence: A Blueprint for Disruption.* Chicago: American Bar Association, 1155 East Sixtieth Street.

Anti-Defamation League of B'nai B'rith, *The Profile of Communism.* New York: Freedom Books, 1961.

Boston Public School System. *Unit on Communism, Enemy of Democracy.* School Document No. 4, 1959.

Chamber of Commerce of the United States. *Freedom vs. Communism: The Economics of Survival.* Washington: 1615 H Street, N.W., 1961.

Civic Education Foundation. *The Isms and You.* Medford, Massachusetts: Tufts University, 1957.

Council for Advancement of Secondary Education. *American Capitalism: An Introduction for Young Citizens.* Washington: 1201 Sixteenth Street, N.W., 1958.

Council for Advancement of Secondary Education. *Capitalism and Other Economic Systems.* Washington: 1201 Sixteenth Street, N.W., 1959.

Florida School Bulletin, *Americanism vs. Communism.* State Department of Education, Tallahasse, Florida, December, 1961.

Indianapolis Public Schools. *Outline of Unit Related to Russia, the Soviet Union and Communism,* 1959 (Outline for use in grades 6-11).

Jackson, Shelby M., State Superintendent of Education, Baton Rouge, Louisiana. *Americanism versus Communism,* (A guide for high school teachers).

Murphy, Agnes, *An Evil Tree, The Story of Communism.* Milwaukee: The Bruce Publishing Company, 1961.

National Education Association and the American Legion. *The American Heritage.* Washington: 1201 Sixteenth Street, N.W.

New Bedford Public Schools, New Bedford, Massachusetts. *A Guide to the Study of the True Facts of Communism,* 1960 (Outline for use in grades 7-12).

Richmond Public School System, Richmond, Virginia. *Tentative Unit Outline About International Communism,* 1961 (Prepared for twelfth grade use).

Science Research Associates, Inc. *The United States and the Soviet Challenge.* Chicago: 57 West Grand Avenue, 1960.

Scott, Foresman and Company. *Democracy — Ours to Live — Ours to Teach.* Chicago: The Company, 1960.

February 26, 1962

REC-37 94-1-369-1689

EX-105

Mr. Walter E. Craig
3030 East Bellevy Home Road
Phoenix 16, Arizona

President-elect
American Bar Association

Dear Mr. Craig:

I would like to take this opportunity to extend my heartiest congratulations to you on your recent nomination as President-elect of the American Bar Association. This honor is indeed an expression of the respect and esteem you enjoy and a well-deserved recognition of your ability. I know that your many friends in this Bureau will share my pleasure in this good news.

My associates and I want to wish you every success in this new position, and I hope you will not hesitate to call on us if we can ever be of assistance.

Sincerely yours,

J. Edgar Hoover

MAILED 20
FEB 26 1962
COMM-FBI

1 - Phoenix
1 - Mr. Malone
1 - Mr. DeLoach

NOTE: Mr. Craig is on the Special Correspondents' List.

RLR:rjg

MAR 9 1962

MAIL ROOM ☐ TELETYPE UNIT ☐

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OPTIONAL FORM NO. 10

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Mohr

DATE: 2-23-62

FROM : J. F. Malone

SUBJECT: WALTER E. CRAIG, PRESIDENT-ELECT
AMERICAN BAR ASSOCIATION (ABA)

Tolson
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On February 20, 1962, at the ABA mid-year meeting at Chicago, Illinois, Walter E. Craig was nominated President-elect of the American Bar Association. Craig as a result of this nomination will automatically be elected President-elect of the ABA in August, 1962 at the San Francisco annual meeting and will become President one year later at the 1963 annual meeting. Therefore, his nomination is tantamount to being elected as President of the ABA.

Craig is a close friend of Inspector Edwards and Supervisor [redacted] and is acquainted with SAC Boyle and other Bureau employees in the Phoenix Office. He has been a firm supporter of the Bureau and is on the Special Correspondence List. Bureau files contain nothing considered derogatory concerning Craig. b6 b7C

Craig is a great admirer of the Director and it is believed that he would be most pleased to receive a letter of congratulations from the Director.

RECOMMENDATION:

That this matter be referred to the Crime Records Division for preparation of a letter of congratulations to Walter E. Craig, 2020 East Bethany Home Road, Phoenix 16, Arizona, from the Director.

1 - Mr. DeLoach

TDW:spd
(3)

ltr to Craig 2-26-62

EX-105

REC-37 94-1-369-1627

17 MAR 6 1962

OPTIONAL FORM NO. 10

UNITED STATES GOVE

Memorandum

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Tele. Room
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TO : Mr. Malone

DATE: 3/1/62

FROM : H. L. Edwards

SUBJECT: AMERICAN BAR ASSOCIATION
MEMBERSHIP COMMITTEE LUNCHEON
ARMY-NAVY CLUB
MARCH 5, 1962

ABA President John Satterfield has asked [redacted] and me to be with him at a luncheon meeting at noon Monday, March 5, 1962, in the Colonial Room of the Army-Navy Club. It is in connection with the ABA Membership Committee and unless advised to the contrary, we will plan to attend.

b6
b7C

HLE:ejw
(2)

REC-113 94-362-1690

1962

CRIMINAL RESEARCH

50 MAR

OPTIONAL FORM NO. 10

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Malone

DATE: 2-26-62

FROM : H. L. Edwards

SUBJECT: CRIMINAL LAW SECTION
AMERICAN BAR ASSOCIATION (ABA)
MID-YEAR MEETING
CHICAGO, ILLINOIS

Tolson
Belmont
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The Criminal Law Section had no formal meeting during the mid-year meeting at Chicago, Illinois, (February 14 through 20, 1962) however, a report was filed by this Section before the House of Delegates. This report is attached. The report contained two recommendations; the first being that the Council of the Section during the interim between the meetings of the Section shall have the full power to do and perform all acts and functions which the Section itself might do or perform, not inconsistent with any action taken by the Section. Any such action taken by the Council shall be reported to the Section at its next meeting. This resolution was adopted by the House of Delegates. The second recommendation pointed out the importance of the administration of criminal justice and resolved that greater attention should be focused by the organized Bar on the administration of criminal justice. The resolution urged greater interest among lawyers and urged that the Association should continue to sponsor and encourage research projects and studies regarding criminal justice. It further urged that in selecting the judges consideration should be given to their experience, etc., in the administration of criminal justice. The resolution also set forth that the Association should encourage law schools to devote greater attention to the teaching of criminal law and criminal procedure. The House of Delegates adopted this resolution also.

ACTION:

None, informative.

1 - Mr. DeLoach
1 - Mr. Evans
1 - Mr. Rosen

TDW:spd
(5)

Enclosure

REC-46 62-1-369-1691

EX-110

11 MAR 6 1962

CAUTIONARY NOTE

Only the RESOLUTION(S) presented herein, when approved by the House of Delegates, become official policy of the American Bar Association. These are listed under the heading RECOMMENDATION(S). Comments and supporting data listed under the sub-heading REPORT are not approved by the House in its voting and represent only the views of the Section or Committee submitting them. Reports containing NO recommendations (resolutions) for specific action by the House are merely informative and likewise represent only the views of the Section or Committee.

AMERICAN BAR ASSOCIATION

SECTION OF CRIMINAL LAW

RECOMMENDATIONS

1. That the House of Delegates approve the following amendment to the Section's By-Laws, adopted by the Section membership at the 1961 Annual Meeting, and transmitted by the Board of Governors at the current Midyear Meeting with favorable recommendation, which will insert a new Section 6 in Article VI as follows:

   Section 6. The Council of the Section during the interim between meetings of the Section shall have full power to do and perform all acts and functions which the Section itself might do or perform, not inconsistent with any action taken by the Section. Any such action taken by the Council shall be reported to the Section at its next meeting.

   adopted

2. That the following resolution, adopted by the Section membership on August 10, 1961, be approved by the Board of Governors and the House of Delegates:

   Whereas, The administration of criminal justice affects more people than does any other branch of the law, and will continue to do so to an even greater extent because of the constantly increasing crime rate; and

94-1-369 - 1691

adopted

Whereas, The public at large, and many members of the legal profession as well, have not been sufficiently aware of the seriousness of the current problems involved in the administration of criminal justice; and

Whereas, The organized bar has neglected this most important branch of the law; and

Whereas, The teaching of criminal law and criminal procedures in our law schools should always be assigned to one of the most highly qualified members of the faculty; and

Whereas, The concept of the "rule of law" can hardly be exported abroad until it is effectively applied at home,

Be it resolved, that:

1. Greater attention must be focused by the organized bar on the administration of criminal justice, and more lawyers must interest themselves, as citizens as well as members of the bar, in the administration of criminal justice and in the actual practice of criminal law, even though it be to a much lesser extent than the criminal law specialist.

2. It must be generally recognized that the defense of a criminal case is a respectable and honorable undertaking, regardless of the character of the accused or the nature of the offense itself; and toward that end the American Bar Association should devote specific attention to

recognizing the status of the criminal law practitioner, both as regards the prosecuting officer as well as defense counsel.

3. The Association should continue to sponsor and encourage research projects and studies regarding criminal justice, and particular attention should be devoted to the ethics of prosecution and defense, and the responsibilities of the judiciary with respect to criminal trials.

4. In the selection of judges on all levels, important consideration should be given to the experience, interest, and participation in the administration of criminal justice of those persons under consideration for judicial office.

5. The Association should encourage the law school teaching profession to devote greater attention to the teaching of criminal law and criminal procedure, and to the development of programs in the field of criminal justice, and to accord to the teaching of criminal law and criminal procedure an important status in the law school curriculum.

REPORT ON RECOMMENDATION 2.

If adopted, this resolution will represent the first step in an effort by the Section of Criminal Law to focus public attention and interest in the criminal law. At its October 1961 meeting this resolution was rejected by the Board of Governors because of objection to a provision it then contained which read:

"3. The Association, at its next annual meeting, should make the subject of the administration of criminal justice a major theme of the meeting, and

the Association should provide for a presentation of the problems of criminal justice on its general assembly program."

This provision has been deleted by the Section Council. The Section Council has voted unanimously to urge your reconsideration. The approval of the Board of Governors and the House of Delegates is requested.

REPORT OF SECTION ACTIVITIES

Council Meeting

The Section Council met in Washington, D. C., on December 15, 1961. Plans were made for the Section program at the 1962 Annual Meeting. The Council made a recommendation concerning Legislative and National Policy Resolves of the American Bar Association for submission to the Committee charged with updating Association Policy positions.

The Section Council also approved an ambitious membership campaign. A revised membership invitation and application has been prepared for this purpose.

Report of 1961 Annual Proceedings

The Section will again distribute a printed copy of the annual proceedings to every member of the Section. All editing has been completed and distribution is expected in March.

Committee Chairmen

Two new chairmen of Section committees have accepted appointments. Edward T. Mancuso, Public Defender, San Francisco, California, is Chairman of the Committee on Defense of Indigent Persons. William J. Curran, Director of the Law-Medicine Research Institute, Boston University, is Chairman of the Committee on Narcotics and Alcohol. Chairmen of other Section committees have been reappointed.

Southeast Regional Meeting

On November 10, 1961, the Section of Criminal Law presented a program entitled "Do's and Don'ts in the Trial of Criminal Cases" in the Colonial Room of

the Dinkler-Tutwiler Hotel in Birmingham, Alabama. Participating in the program were William H. Blackmarr, Washington, D. C., Moderator, L. Drew Redden, Birmingham, Alabama, Charles A. Bellows, Chicago, Illinois, Henry B. Rothblatt, New York City, New York, and Roderick Beddow of Birmingham, Alabama.

Mr. Redden's opening topic was "The Defendant's Right to Discovery." Mr. Bellows discussed "Publicity and Its Effect on the Trial of a Criminal Case." "Examination and Cross-Examination of Witnesses" was handled by Mr. Rothblatt and "Predicates for an Appeal--Including Requests for Instructions and the Final Argument" were Mr. Beddow's subjects.

The program was well attended and extensive audience participation indicated an appreciation of the careful preparation and the outstanding professional skills of the participants.

Respectfully submitted,

Charles L. Decker,
Chairman, Section of Criminal Law

REC- 69 94-1-369-1692

February 28, 1962

[redacted]

Assistant to the Editor-in-Chief
American Bar Association Journal
1155 East 60th Street
Chicago 37, Illinois

Dear [redacted]

Thank you for your letter of February 16, 1962, granting permission to reprint my article, "Shall It Be Law or Tyranny?" which appeared in the February issue of the American Bar Association Journal. I am enclosing ten copies of the reprint for your use.

Sincerely yours,

J. Edgar Hoover

MAILED 20
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Enclosures (10)

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AMERICAN BAR ASSOCIATION JOURNAL
1155 EAST 60TH STREET ○ HYde Park 3-0533 ○ CHICAGO 37, ILLINOIS

Mr. Tolson
Mr. Belmont
Mr. Mohr
Mr. Callahan
Mr. Conrad
Mr. DeLoach ✓
Mr. Evans
Mr. Malone
Mr. Rosen
Mr. Sullivan
Mr. Tavel
Mr. Trotter
Tele. Room
Mr. Ingram
Miss Gandy

February 16, 1962

EDWARDS

Honorable J. Edgar Hoover
Director, Federal Bureau
of Investigation
Washington 25, D. C.

Dear Mr. Hoover:

We are glad to give you permission to reprint your article entitled "Shall It Be Law or Tyranny?" in our February issue.

Sincerely yours,

[redacted]

Assistant to the Editor-in-Chief

LC:ms

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FEB 19 1962

REC-69 94-1-369-1692

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X-107

OPTIONAL FORM NO. 10

UNITED STATES GOVERNMENT

Memorandum

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TO : Mr. Malone

DATE: 2/27/62

FROM : H. L. Edwards

SUBJECT: AMERICAN BAR ASSOCIATION (ABA)
ANTI-TRUST SECTION
MIDYEAR MEETING, CHICAGO, ILLINOIS
2/13 - 20/62

At the above-captioned midyear meeting, the Anti-trust Section of the ABA submitted its report to the House of Delegates. This report is attached and it primarily dealt with the opposition of the Anti-trust Section to H. R. 8831 of the 87th Congress.

We believe that this might be of some interest to the General Investigative Division.

RECOMMENDATION:

That this report by the Anti-trust Section be referred to the General Investigative Division for information purposes.

Enclosure

1 - Mr. Rosen

TDW:mvd

(3)

60 MAR 12 1962

2 ENCLOSURES

REC. 48

94-1-3[illegible]-1693

12 MAR 6 1962

EX-101

AMERICAN BAR ASSOCIATION

SECTION OF ANTITRUST LAW

RECOMMENDATION

The Section of Antitrust Law recommends that the House of Delegates adopt the following resolution:

RESOLVED: That the American Bar Association opposes enactment of H. R. 8831, 87th Congress, or any other bill having the similar purpose of authorizing the Federal Trade Commission to issue temporary cease and desist orders pending the completion of Federal Trade Commission proceedings; and

FURTHER RESOLVED: That the Officers and Council of the Section of Antitrust Law are directed to urge such opposition and disapproval upon the proper committees of Congress in connection with any such proposed legislation.

Adopted

REPORT

A number of bills have been introduced in the present Congress to amend Section 5 of the Federal Trade Commission Act so as to authorize the Federal Trade Commission to issue temporary cease and desist orders. Similar bills introduced in the 86th Congress were not reported out of committee.

This statement relates specifically to H. R. 8831 (herein referred to as "the bill"). However, the objections to H. R. 8831 are equally applicable to any other bill having the same purpose.

In essence, the bill would permit the Commission to issue a temporary cease and desist order whenever it has reason to believe that the enjoining of any act or practice or method of competition of a respondent would be to the interest of the public

and would prevent irreparable harm. Such an order would continue in effect pending completion of normal formal proceedings by the Commission or until any order of the Commission resulting from such proceedings were set aside by a court on review or made final.

This bill requires only that the Commission give the respondent an opportunity to appear to show cause why a proposed temporary cease and desist order should not be issued. Thereafter, the Commission may issue the order if it concludes that there has been a prima facie showing that the temporary order would be in the public interest and is required to prevent irreparable harm, but there is no requirement that the Commission act on the basis of any evidence of this nature beyond that which initially gave it reason to believe that a temporary order would be desirable. Either the Commission or the respondent may obtain court review of the temporary order, a prerequisite to enforcement of the order. The jurisdiction of the reviewing court, however, is limited to determining whether the respondent was given a hearing "and otherwise afforded due process" in connection with the temporary order.

Such proposed legislation should not be enacted into law, since it violates basic concepts of justice and fairness in that:

(1) The bill ignores the fundamental right of any individual or corporation to carry on regular business practices prior to their having been adjudged unlawful and the impossibility of recouping serious losses which could result from temporarily enjoining business methods subsequently held to be lawful.

(2) The bill would give the Commission dictatorial power which is not needed in the public interest, particularly in view of wide authority which already exists for temporarily enjoining violations of statutes administered by the Commission.

(3) The bill combines in the Commission additional prosecutor-judge-jury powers without reasonable safeguards.

(4) The bill does not provide adequate judicial review.

(5) The bill could lead to the prejudging of cases on an incomplete record.

(6) The bill exposes the Commission to possible improper pressures from Congress.

Proponents of this legislation give the appearance of believing that the only effect of a temporary cease and desist order would be a matter of timing: Since the public

is protected by issuance of a cease and desist order at the end of a proceeding, it follows that the public would be protected just so much more if the order were issued at the beginning of the proceeding.

Such thinking assumes the infallibility of the Federal Trade Commission. It forgets that many allegations in the Commission's complaints are later discarded because they are not supported by facts or are not in accordance with a proper interpretation of the law. It ignores the drastically unfair effect that a temporary cease and desist order would have on a respondent who is able to disprove some or all of the charges in the formal complaint.

The Commission issues a complaint when it "has reason to believe" that there has been a violation of the Federal Trade Commission Act or the Clayton Act. As a basis for a temporary cease and desist order, the Bill would require no more finding of the existence of such violation than this same "reason to believe". But experience has shown that in many instances this reasoning process has been faulty. Thus there are four different situations in which a temporary cease and desist order would unfairly restrict a respondent during the pendency of the hearings:

(1) The Commission may dismiss the complaint entirely.[1]

(2) The Commission may issue an order substantially narrower in scope than the charges in the complaint and thus presumably substantially narrower than the temporary order which it might have issued.[2]

(3) A reviewing court may set aside the Commission's order in its entirety.[3]

(4) A reviewing court may substantially modify the Commission's order and leave it in effect substantially narrower in scope than a temporary order presumably would have been.[4]

These are not mere possibilities or once-in-a-blue-moon occurrences. All four happen, in the aggregate, with sufficient frequency to deserve most serious consideration by the Congress. While no statistics are available, there are many reported cases beyond the few random recent examples cited in footnotes 1 - 9,

[1] Lever Brothers Co., 50 F.T.C. 494 (1953).
[2] Simplicity Pattern Co., Inc., 53 F.T.C. 771 (1957).
[3] Federal Trade Commission v. Standard Oil Co., 355 U.S. 396 (1958).
[4] Swanee Paper Corp. v. Federal Trade Commission, 291 F.2d 833 (CA 2, 1961).

and practitioners before the Commission are familiar with the fact that often, before a cease and desist order is issued, many charges in the original complaint have been dropped along the wayside without fanfare.

In a price discrimination case under Section 2(a) of the Robinson-Patman Act, a respondent might be required by a temporary order to abandon a graduated discount structure even though the Commission or a court might ultimately hold that the discounts were cost justified or that there was no competitive injury. 5/ The Company conceivably could have lost thousands or millions of dollars of sales in the interim. In a case involving a merchandising promotion program under Section 2(d) or 2(e) of the Robinson-Patman Act, where the complaint was ultimately dismissed on the ruling that products sold to alleged competitors were not of like grade and quality, the respondent might have been seriously handicapped in the meantime by being forced to abandon all promotional efforts because he could not afford to provide the allowance or assistance to all customers. 6/ In a case charging receipt by a buyer of an unlawful price discrimination under Section 2(f) of the Robinson-Patman Act, where the complaint was ultimately dismissed for failure of proof, that concern might be forced by a temporary order into paying substantially higher prices over a period of years until the complaint was finally dismissed. 7/ In none of these situations could the respondent recoup in any way those great losses.

The same potential injury exists in varying degrees in other areas of the Commission's jurisdiction. With respect to a case charging exclusive dealing under Section 3 of the Clayton Act, a respondent might be forced to terminate highly advantageous contractual arrangements. 8/ Or it might be forced to abandon an effective advertising campaign during the pendency of a proceeding under Section 5 of the Federal Trade Commission Act, 9/, and so on. Ultimate vindication by dismissal of the complaint after completion of the proceeding would be bitter consolation.

With respect to proceedings under the Robinson-Patman Act, this potential danger to the respondent is intensified by the practice of the Commission of issuing broad cease and desist orders applying not merely to the respondent's

5/ Minneapolis-Honeywell Reg. Co. v. Federal Trade Commission, 191 F.2d 786 (CA 7, 1951); cert. dis. 344 U.S. 206 (1952)

6/ Atlanta Trading Corp. v. Federal Trade Commission, 258 F.2d 365 (CA 2, 1958).

7/ Sylvania Electric Products, Inc., 51 F.T.C. 282 (1954).

8/ Murray Space Shoe Corp., Docket 7476, October 17, 1961.

9/ Evis Mfg. Co. v. Federal Trade Commission, 287 F.2d 831, (CA 9, 1961).

products involved in the litigation, but also to all other products of that respondent. 10/ Even as to the product directly involved in Robinson-Patman litigation, it is frequently difficult to plan compliance with a normally vague and general order of the Commission without the clarification that comes through the trial procedure. It is not enough to say that a respondent can simply charge uniform prices while the litigation is going on. Frequently this is too much of a competitive handicap; and often there is legally available a wide area of permissible price differentials, because of cost justification, meeting competition, absence of competitive injury between classes of customers, etc., even though the particular practice under attack is found to violate the Robinson-Patman Act.

The bill gives no recognition to any of those drastic impacts on the respondent. The Commission is not required to give any consideration to the effect on the respondent. One of the sponsors of this proposed legislation has come to recognize this defect and its gravity. 11/

Leaving any entrepreneur, individual, or corporation unprotected against the whim of the Commission in this regard flies in the face of fundamental principles of equity and justice that have become firmly implanted in our legal system by an evolutionary process over several centuries, principles which are recognized and applied by federal courts.

10/ For example, in the price discrimination case against Sun Oil Company in which a reviewing court of appeals set aside the Commission's order some five years after issuance of the complaint, 294 F. 2d 465 (CA 5, 1961), the case in the Commission was based on Sun's giving a single gas station customer in Jacksonville, Florida, for a period of six weeks, the benefit of a price differential of 1. 7 cents a gallon on gasoline alone, because of price cutting at a gas station across the street. Yet, according to Sun's brief in the Fifth Circuit, the order applies to "crude oil, a vast range of petroleum and related products, chemicals and chemical products, tires, batteries and accessories, etc., -- without regard to how those products are marketed and to the type of purchaser to whom they are sold." Although Sun challenged the breadth of the order, the court of appeals did not consider that issue since it set the order aside under the "meeting competition" proviso. If Sun had been under a temporary order, presumably it would still be pricing all those non-gasoline products at its peril, since it has not yet been determined whether the Supreme Court will review this case.

11/ Representative Roosevelt: "I have come to the conclusion that it would be proper to certainly say that not only should the public interest and not only the irreparable damage, which must be shown under the bill, be proven beyond any question, but that also the effect upon the defendant should also be mentioned as criteria, because in all honesty there is an element of danger

Temporary injunctions may be sought in antitrust cases, both those between private parties and those instituted by the Government. The Department has authority under Section 4 of the Sherman Act and Section 15 of the Clayton Act to request a temporary injunction in antitrust cases under those two statutes. Although this has been attempted infrequently, there are two major principles which have been developed in these cases. First, the Government must make a prima facie showing to the court of an antitrust violation. Second, if the requested temporary injunction would do more than merely preserve the status quo and would interfere with regular business activities of the defendant, then the Government must make an extremely strong showing of a need to interfere with the defendant's regular activities. Courts have demonstrated great reluctance to upset the operation of a business while the antitrust case is being tried:

> "An injunction in the form suggested by the Government will drastically interfere with the orderly release of films under the Agreement. * * * Serious interruption in the orderly release of films by Screen Gems will result in losses which may never be recouped even though the Government be not successful in the final judgment."12/

It would be no answer to this objection to attempt to write into the bill a provision specifically requiring the Commission to give weight to such potential injury to the respondent. As will be pointed out below, it is doubtful that this could be done satisfactorily. The important point is that there is no need to give the Commission the proposed broad power to issue temporary cease and desist orders, because there already exists ample authority in the Federal Government, and in private parties threatened with injury, to obtain in court temporary relief against alleged illegal practices upon a showing of need therefor.

The major areas of jurisdiction of the Federal Trade Commission, and existing authorities for temporary injunctions in those areas, are as follows:

(1) Price discrimination and related practices covered by Section 2 of the Clayton Act: The Attorney General presently has power to obtain a temporary injunction in a federal district court.

11/ (Continued)
unless that is done that you might do irreparable harm also to the defendant, and, as I read the legislation at the present time the irreparable harm referred to is only to the complainant." Hearings before House Committee on Interstate and Foreign Commerce on H. R. 1233, August 23, 1961, pp. 121-2.

12/ United States v. Columbia Pictures Corp., 169 F. Supp. 888, 896 (D.C.S.D. N.Y., 1959). The motion for preliminary injunction was only "partially granted, to maintain the status quo." See also United States v. Schine Chain Theatres, 31 F. Supp. 270 (D.C.W.D.N.Y., 1940).

(2) Exclusive dealing arrangements and tying contracts under Section 3 of the Clayton Act: The Attorney General presently has power to obtain a temporary injunction in a federal district court.

(3) Mergers under Section 7 of the Clayton Act: The Attorney General presently has power to obtain a temporary injunction in a federal district court. (This appears to be the only one of these areas in which the temporary cease and desist order could reasonably be expected to be issued prior to the challenged business practice being put into effect -- to maintain the status quo as contrasted to upsetting established merchandising methods.)13/

(4) Price fixing and other combinations in restraint of trade, and monopolizing practices, under Section 5 of the Federal Trade Commission Act but which also constitute violations of Section 1 or Section 2 of the Sherman Act: The Attorney General presently has power to obtain a temporary injunction in a federal district court.

(5) False advertising in violation of Section 5 of the Federal Trade Commission Act: If such advertising relates to food, drugs, devices, or cosmetics and thus threatens public health or safety, the Commission presently has power under Section 13 of the Federal Trade Commission Act to obtain a temporary injunction in a federal district court.

(6) Miscellaneous business practices, other than any of the above categories, which are unfair or deceptive or constitute unfair methods of competition: There presently is no authority for temporary injunctions. This includes such relatively minor offenses as push money, commercial bribery, and the like, with respect to which delay in prohibiting the practice during litigation can hardly have any drastic adverse effects on the economy of the country. If the case involves a major business practice with significant possible anti-competitive effects and is not within one of the above categories, the chances are that this case is on the borderline of the law and that there is serious doubt as to whether a cease and desist order will ultimately be issued. It would be particularly unfair to require the company to change a major normal business practice where there existed so much doubt as to whether the practice was actually unlawful.

13/ In February 1956, the House of Delegates of the American Bar Association adopted a resolution recommending that the Federal Trade Commission be authorized to institute court proceedings to enjoin mergers prohibited by Section 7 immediately upon issuance of a complaint by the Commission.

Those powers of the Attorney General to seek temporary injunctions have existed for decades. The handful of instances in which the Attorney General has attempted to use those powers is strong testimony that there is no real need for this broad new power sought by the Federal Trade Commission. Apparently there has never been an attempt by the Government to obtain a temporary injunction against price discrimination, although the Clayton Act was adopted in 1914 and the Robinson-Patman Act amendments became law in 1936.

In addition to governmental action, the business man who believes himself threatened with extinction by price discrimination or some other offense within the jurisdiction of the Federal Trade Commission can, if the facts warrant, obtain a temporary injunction from a federal district court under Section 16 of the Clayton Act or from a state court under state statutes or common law. There are very few business practices which could be suspended by a temporary order under the bill which could not also be suspended by a temporary injunction in a private suit -- always assuming, of course, that the interests of the plaintiff which deserve protection outweigh the legitimate interests of the defendant.

The proponents of the bill have said that those existing temporary injunction powers are inadequate but have not explained why. Representative Steed has testified that neither the Department of Justice nor the Commission has authority to cope with "price war situations where, even though the merits of the case will win for a complainant in the long run, his economic condition is too weak for him to survive the conditions over a period of years, and it is not infrequent that when the final decision in his favor is rendered, it comes long after he already has passed from the scene, and therefore, really gives him no benefit."14/ However, a price war is not per se unlawful but can derive illegality only from a collateral circumstance such as price discrimination. The proposed temporary cease and desist order legislation could give the Commission more authority in this respect than the present temporary injunction power of the Department only by giving the Commission more discretion than federal judges now possess to ignore fundamental rights of the respondent - defendant.

The Chairman of the Commission has made numerous speeches advocating the bill, but he has not yet described one specific example of the "irreparable harm" which has been occurring from the Commission's inability to issue temporary cease and desist orders in proceedings which ultimately lead to final orders.

14/ Hearings before House Committee on Interstate and Foreign Commerce on H.R. 1233, August 23, 1961, pp. 77-8.

It has been said that this proposed legislation is needed because "inordinate delay" is characteristic of Commission cases. Representative Patman sees two causes of this delay: First, he says,

> "The respondents who were engaging in the alleged unfair trade practices, with batteries of highly skilled lawyers and seemingly unlimited resources, have, heretofore, been able to employ numerous technical dilatory tactics to prolong the proceedings instituted by the Commission, all the while the little man is being strangled, without relief."15/

That is a popular refrain. Yet the Commission certainly has long had authority to curb dilatory tactics of trial counsel, particularly in individual cases where there is the shadow of irreparable harm from delay. Indeed, on June 29, 1961, new rules of procedure were promulgated to speed up Commission proceedings, which have been well received by the bar.

Moreover, there is reason to believe that dilatory tactics have been far less responsible for delay than have such factors as the crowded calendars of hearing examiners, supplemental investigations in the middle of trials, the heavy workload of Commission staff attorneys, and the Commission's own slowness in announcing decisions after final argument. Mr. Patman recognizes this as the second cause of delay.16/

If the new rules of procedure have their intended effect, that could conceivably go far to meet the problem. The appointment of additional hearing examiners and various internal reorganizations during 1961 should make a material additional contribution. The Congress might do well to await an opportunity to evaluate those recent developments.

15/ Congressional Record, August 22, 1961, p. 15533.

16/ Representative Patman supports his plea for temporary orders by quoting letters from one industry, the dairy industry (Cong. Rec., August 22, 1961, pp. 15534-9). It might be interesting to speculate as to what would have been the effect of issuance of temporary orders against respondents in one group of still pending cases involving the dairy industry (Dockets 6172-6179, 6425). Temporary orders presumably would have banned a wide variety of ice cream merchandising practices ranging from lending refrigeration cabinets and providing advertising signs to retail stores to granting them quantity discounts (which might or might not be cost justified in whole or in part). The hearing examiner, in an initial decision totaling 336 pages, ruled that the evidence did not bear out any of the charges. Twenty months later the Commission remanded the case for the introduction of more evidence to support the complaints.

Those changes within the Commission will enable the Commission to exercise considerable control over the speed of concluding its proceedings. It must be remembered that issuance of a temporary cease and desist order would remove an important incentive on the part of Commission personnel to bring such cases to a rapid termination. This is not to suggest that there would be any deliberate disregard of respondents' interests in expeditious deciding of those cases, but the Commission administrators will always be forced to choose between different areas of utilization of their limited manpower.

The above discussion leads to the conclusions that authority to issue temporary injunctions against existing regular merchandising methods carries with it the potentiality of grave injury to the enjoined concern during the course of the litigation, and that this potential injury is not outweighed by any demonstrated public need to extend the present powers of the Federal Trade Commission in this respect. In addition, the proposed legislation does not (and cannot by language changes) provide any reasonable degree of protection against arbitrary and unwarranted rulings causing this injury.

It has been suggested that since the Federal Trade Commission and the Department of Justice have a sort of "parallel jurisdiction" in the field of antitrust and trade regulation, the fact that the Attorney General has authority to obtain temporary injunctions from federal district courts demonstrates the propriety of giving a parallel power to the Commission. That line of thinking ignores the vital distinction between authorizing the Department of Justice to obtain a temporary injunction from a federal court if it can convince the judge of the need therefor and the reasonableness thereof, on the one hand, and on the other hand delegating to the Federal Trade Commission both the initiative to seek the temporary injunction and the discretion to issue it.

The proposal embodied in this bill is an extreme form of the prosecutor-judge-jury combination, 17/ which has given rise to so much controversy over the conduct of federal administrative agencies and the evils which were sought to be confined within reasonable bounds by enactment of the Administrative Procedure Act of 1946. Among other things, the Administrative Procedure Act spells out the rights of a respondent in a Federal Trade Commission proceeding to "confront his accusers", to have adequate time to prepare a defense to definite charges, to have the issues decided on the whole record, and to obtain judicial review as to the substantiality of evidence relied on to support

17/ "The Commission wears all of the hats involved in proceedings instituted under its authority. It is, at once, the accuser, the prosecutor, the judge and the jury." Niresk Industries, Inc. v. Federal Trade Commission, 278 F.2d 337, 341 (CA 7, 1960).

the Commission's action. Even those safeguards are believed by many to be inadequate, as is demonstrated by the proposal to transfer the adjudicative functions of the Federal Trade Commission to a "trade court", but even those safeguards are not found in the present bill.

First of all, the bill provides that the Commission, after issuing its own complaint, may propose to itself issuance of a temporary order if it "has reason to believe" that ultimate issuance of a cease and desist order against the respondent might be warranted and that temporarily enjoining the challenged business practice pending completion of the proceedings would be to the interest of the public and would prevent irreparable harm. This standard for starting the wheels turning is not objectionable in and of itself because there must be subjective judgment by someone as a basis for commencing any form of litigation by the Government. The vice is that there is no provision for a fair and impartial decision after those wheels have been started turning.

The bill goes on to provide that the respondent must have a right to appear " to show cause" why the proposed temporary order should not be issued. The way the bill is worded suggests that in so appearing the respondent would have before him only the notice containing the proposed temporary order, which might or might not include some cursory statement of the basis of the Commission's "reason to believe". The respondent would then have to base his show-cause arguments on his imagination as to what purportedly factual information was influencing the Commission's thinking, plus whatever knowledge he might have gained during the course of the investigation which preceded issuance of the complaint, to prove a negative proposition. There is no assurance that he would be presented with any propositions supporting the temporary order to which he could direct a rebuttal. With respect to showing cause, the bill gives the respondent no right to deal with the merits of the alleged violation itself, no opportunity to demonstrate any possibility or probability that the allegations of the complaint are weak factually or legally.

After the respondent's effort to show cause has been completed, the Commission shall have the duty to issue a temporary order if it concludes that "a prima facie showing has been made it would be to the interest of the public and required to prevent irreparable harm" and also that the respondent "has not shown cause why such temporary order should not be issued." There is no indication as to how the prima facie "showing" is to be made. The Commission might take the position that this could be ex parte, or even that the routine investigation which had produced the "reason to believe" would also enable the Commission to ascertain whether or not it would be in the public interest to issue a temporary order.

This notion of an ex parte "showing" to the Commission is consistent with the subsequent provision of the bill concerning purported judicial review. The jurisdiction of the reviewing court is limited to determining whether the respondent "was given

a hearing" on the proposed temporary order "and otherwise afforded due process in connection therewith."18/ It can be argued, of course, that constitutional due process itself requires that the respondent be given a full and fair hearing with an opportunity to cross examine witnesses, challenge documents, and otherwise have at least a reasonable opportunity to rebut concrete evidence, and that therefore the reviewing court would refuse to direct compliance if the Commission gave the respondent short shrift in those respects. Trusting the courts to supply that interpretation would seem to be leaning on a weak reed.

Although the present language of the bill dramatically points up the unfairness to business concerns, those defects in this proposed legislation could not be cured by adding to the present bill any number of detailed procedures and standards or expanding judicial review. There are at least several reasons for this.

First, as has been mentioned, this is an extreme form of the prosecutor-judge-jury combination. Adequate due process safeguards are precluded by the very nature of a proceeding involving a possible temporary injunction, and the necessary time elements. It is asking too much of human beings to expect them to decide one day that they have reason to believe a temporary cease and desist order should be issued and a few days later to erase their memories and consider impartially a fresh, abbreviated record.

A second reason is that in a great many types of proceedings before the Commission, a ruling on interest of the public and irreparable harm would virtually amount to prejudging the merits of the ultimate full-scale proceeding. In many price discrimination cases under Section 2(a) of the Clayton Act, injury to competition or the absence of any reasonable probability of such injury is the principal issue when the case is being finally decided. Similarly, in a great many proceedings under Section 5 of the Federal Trade Commission Act, the decision whether a particular business practice is lawful or unlawful depends upon a conclusion as to whether there is injury to competition. This issue arises under various other statutes which the Commission enforces. It is difficult to believe that a decision on this issue adverse to the respondent in connection with a temporary order would leave the respondent any real room to argue, in his final hearing on the merits, that there was not even a reasonable probability of injury to competition.

A third reason is that giving this added authority to the Commission would open the door to the possibility of improper pressures on the Commission from members

18/ The Chairman of the Commission may not desire such abbreviated judicial review. In a speech before the National Congress on Medical Quackery on October 6, 1961, he said: "Of course, a court of appeals and the Supreme Court must have the power of reviewing such temporary orders issued by the Commission just as these courts have jurisdiction to review* * * final orders to cease and desist issued by the Commission."

of Congress, either in fact or as a matter of suspicion, which would be almost as bad. The necessity to go to Congress with hat in hand for annual appropriations may leave the Commission vulnerable, and there is always the possibility that reappointment of a Commissioner could be thought to be influenced by the feelings of individual Senators or Representatives toward him.

Congressional communications can lead directly to the issuance of formal complaints by the Commission. 19/ Sometimes a complaining letter from a constituent is simply forwarded by the member of Congress. Sometimes detailed information developed by committee hearings is transmitted to the Commission. There is nothing inherently wrong in this relationship between Congress and the Federal Trade Commission. With respect to formal cases, the procedures established by the Administrative Procedure Act and the right to judicial review on the merits probably provide adequate insulation against any pressures which might arise. With respect to temporary cease and desist orders, however, it is not practicable to provide those insulating safeguards as long as it is the Commission which makes the decision. If a member of Congress suggests to the Attorney General that it would be in the public interest to seek a temporary injunction in an antitrust case, the extent of the power in the Department of Justice is to make a request to the court. It is inconceivable that the member of Congress would communicate with the judge; yet that would be equivalent to the situation which is contemplated by this proposed legislation.

Similarly, expanded provisions for judicial review would not really remedy the undesirable features of this proposed legislation. Adequate judicial review could be based only on a detailed record made in the administrative hearing and in briefs and oral argument to the reviewing court. The court could not review the record in a cursory manner and still do justice to the parties. If the bill were to be so revised, it would seem that more time would be required for a hearing within the Commission and then review by a court than for a single proceeding before the court to start with. Giving the Commission the power to issue temporary orders would thus create a procedure both less expeditious and also less impartial than requiring the Commission to petition a court for a temporary injunction.

Conclusion

Before passing any legislation of this type, the Congress should ponder the following questions:

> Are the existing powers of the Federal Trade Commission to seek temporary injunctions, with respect to certain types of advertising and of

19/ How this liaison works is described in the transcript of Hearings before House Committee on Interstate and Foreign Commerce on H.R. 1233, August 23, 1961, pp. 111-5. Representative Steed expressed the desire that the bill would empower the Commission to "take action on such a report that might come from a Congressional committee, as an example, and proceed to issue a temporary cease and desist order" . (page 112).

the Department of Justice, with respect to a wide variety of business practices, really inadequate to meet the public need, considering the extraordinary and drastic nature of this restraint?

Is there a public need for temporary injunctions of business practices beyond the present reach of either the Federal Trade Commission or the Department of Justice?

Can the claimed prospective benefits to consumers and small business men reasonably be expected to flow from extension of the existing temporary injunction power?

If so, will those claimed prospective benefits to consumers and small business men outweigh the potential harm to sound and reputable business concerns from unjustified interference with customary merchandising methods?

Unless the answers to those questions are clearly and convincingly in the affirmative, no such legislation should be enacted. If all those questions are answered in the affirmative, then the most that should be done would be to specifically broaden the present scope of Section 13 of the Federal Trade Commission Act -- such as to other types of advertising, or to mergers, or possibly to other categories of business practices -- so that the power to issue temporary injunctions, in the first instance, would continue to be solely in the federal courts. Otherwise, there would be an inevitable denial of traditional "due process" to a substantial degree.

Respectfully submitted,

S. CHESTERFIELD OPPENHEIM
Chairman

Paul Rand Dixon and Lee Loevinger did not participate in the consideration or voting on this matter.

AMERICAN BAR ASSOCIATION

SECTION OF ANTITRUST LAW

RECOMMENDATION

The Section of Antitrust Law recommends that the House of Delegates adopt the following resolution:

RESOLVED: that the American Bar Association disapproves of and opposes any amendment of the Federal Trade Commission Act, the Sherman Act, or any federal antitrust or trade regulation statute which would further expand the philosophy of so-called fair trade acts and create in any form a Federal right of action in the enforcement of fair trade contracts.

FURTHER RESOLVED: that the officers and council of the Section of Antitrust Law are directed to urge such opposition and disapproval upon the proper committees of Congress in connection with any legislation enbodying any such amendment.

REPORT

In 1959 the House of Delegates adopted a resolution recommended by the Section of Antitrust Law in virtually the same language as in the above recommended resolution. The purpose of requesting a reaffirmation of the prior resolution is to update it as a current expression of the Association and to incorporate in the accompanying Report developments in pending Congressional bills.

Several bills introduced during the 85th, 86th and 87th Congress would amend the Federal Trade Commission Act so as to create in some form a Federal right of action for the enforcement of fair trade contracts entered into under state law.

S. 1722, 87th Congress, introduced by Senator Humphrey would amend the Federal Trade Commission Act to authorize resale price maintenance for branded merchandise in interstate commerce or held for sale after shipment in interstate commerce, when notices, contracts, or agreements so providing are lawful as applied to intrastate transactions under the law of any state in which such resale is to be made or to which the commodity is to be transported for such resale. The bill specifically provides that neither the giving of notice, nor the making of contracts or agreements, nor the exercise or enforcement of any right or right of action of this kind shall constitute an unlawful burden or restraint upon, or interference with, interstate commerce.

The bill would provide that any person suffering damages by reason of violation of a fair trade contract or sale below a notice price, may sue in Federal Court without respect to the amount in controversy, except that where no injunction lies the Federal Court shall not entertain a suit for damages unless the amount in controversy exceeds $10,000, exclusive of interest and costs. The bill further provides that resale prices may be established by the trade name proprietor even though he sells such merchandise to retailers in competition with wholesale distributors, if such sales to retailers are made at the same price established for wholesale distributors for comparable sales and the proprietor is not a wholesale distributor of product other than those of which he is the trade name proprietor.

The purpose of this type of legislation is to expand the present Federal amendments (the Miller-Tydings Act and the Maguire Act) sometimes called the Fair Trade Amendment. The Humphrey bill purports to grant a Federal right of action, and any person damaged by a violation of a fair trade price would be permitted to sue "in any State or Federal court of competent jurisdiction". Several States have not enacted fair trade laws, and others have held State fair trade laws to be unconstitutional or of limited scope not encompassing nonsigners. This bill would appear to seek to enable persons to use the courts of these and other States to enforce resale price maintenance. This would appear to be an unwarranted invasion of the sovereignty of such States, and the authority of Congress to confer such rights is open to serious question. The Department of Justice and the Federal Trade Commission have both opposed legislation of this type on the ground that it is totally inconsistent with the Sherman Act of 1890 which expresses the philosophy that this nation's economy should in the main be governed by a concept of free competition.

In the Report of the Attorney General's National Committee to Study the Antitrust Laws (1955), more than 50 of the nation's leading lawyers and economists considered resale price maintenance and "fair trade" (See pp. 149-155). We quote from page 154:

> On balance, we regard the Federal statutory exemption of "Fair Trade" pricing as an unwarranted compromise of the basic tenets of National antitrust policy. We recognize that the legislatures of 45 states have at some time accorded official sanction to "Fair Trade" pricing; that the Congress twice deferred to state enactments by creating federal "Fair Trade" exemptions from antitrust prohibitions; and that without federal immunization "Fair Trade" pricing, as a practical matter, cannot survive. Nevertheless, the throttling of price competition in the process of distribution that attends "Fair Trade" pricing is, in our opinion, a deplorable yet inevitable concomitant of federal exemptive laws. Moreover, whatever may be the underlying legislative intent, any operative "Fair Trade" system facilitates horizontal price-fixing efforts on the manufacturing and each succeeding distributive level. And the prominent existence of a federal price-fixing exemption not only symbolizes a radical departure from National antitrust policy without commensurate gains, but extends an invitation for further encroachment on the free-market philosophy that the antitrust laws subserve.
>
> We therefore recommend Congressional repeal both of the Miller-Tydings amendment to the Sherman Act and the Maguire amendment to the Federal Trade Commission Act, thereby subjecting resale-price maintenance, as other price-fixing practices, to those Federal antitrust controls which safeguard the public by keeping the channels of distribution free.

If mere Federal statutory exemption of fair trade pricing on shipments of merchandise into states having state fair trade acts constituted in 1955 a radical departure from national antitrust policy and extended "an invitation for further encroachment on the free market philosophy that the antitrust laws subserve," how much more objectionable is the pending type of legislation which would expand a Federal exemption into a Federal right of action to enforce fair trade contracts even in those states where no fair trade acts exist if the merchandise in question was "held for sale after shipment in commerce."

Respectfully submitted,

S. CHESTERFIELD OPPENHEIM, Chairman

Paul Rand Dixon and Lee Loevinger did not participate in the consideration or voting on this matter.

REC-91 94-1-369-1694

March 2, 1962

[redacted]

Los Angeles 15, California

Dear [redacted]:

Your letter of February 23, 1962, with enclosure, has been received, and I appreciate the concern prompting you to write.

With regard to your inquiry concerning my article which appears in the February, 1962, issue of the "American Bar Association Journal," I had in mind those individuals who have not taken the time to inform themselves about the strategy, fallacies and aims of communism. Too often such individuals are motivated by an incorrect understanding of the true facts which, of course, leads to false judgments and incorrect conclusions.

For your information, enclosed is a complete text of this item, together with some other material on the subject of communism I hope will be of interest to you. I am also returning your self-addressed, stamped envelope which you sent with your communication.

Sincerely yours,

J. Edgar Hoover

John Edgar Hoover
Director

MAILED 20
MAR - 2 1962
COMM-FBI

Enclosures (5)

Correspondent's self-addressed, stamped envelope
Shall It Be Law or Tyranny?
The Cottage of Free Men (Director's speech 2-22-62)
4-17-61 Internal Security statement
The Communist Party Line

NOTE: Bufiles contain no record of correspondent. Her self-addressed, stamped envelope is being returned.

RLR:rjc (5)

Tolson
Belmont
Mohr
Callahan
Conrad
DeLoach
Evans
Malone
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Ingram
Gandy

MAIL ROOM TELETYPE UNIT

REC'D-READING ROOM
FBI
MAR 2 5 54 PM '62

b6
b7C

[redacted]

Los Angeles 19, Calif.
Feb. 23, 1962

Mr. Tolson
Mr. Belmont
Mr. Mohr
Mr. Callahan
Mr. Conrad
Mr. DeLoach
Mr. Evans
Mr. Malone
Mr. Rosen
Mr. Sullivan
Mr. Tavel
Mr. Trotter
Tele. Room
Mr. Ingram
Miss Gandy

b6
b7C

Mr. J. Edgar Hoover
Director
The F.B.I.
Washington, D.C.

Dear Mr. Hoover:

Last night I saw a T.V. program on C.B.S. (channel 2) at 10:00 P.M. called "Thunder on the Right."

This was slanted reporting at its worst, but at the end of the program they supposedly quoted a statement made by you, purportedly showing your disapproval of the new rightist movements, such as those headed by Messrs. Welch and Schwarz. You are reported as having said there were too many self-styled authorities on communism, or some such tripe.

We cannot believe that you ever made such a statement; but think this must have been a misquote, or something lifted out of context.

Will you please enlighten us on this "quotation" of yours, and set the record straight once and for all?

Thanking you in advance, I am

Very truly yours,

[redacted]

b6
b7C

P.S. Self-addressed, stamped envelope is enclosed for your reply.

COPY:hcw

[redacted]

b6
b7C

Los angeles 19, calif.
Feb. 23, 1962.

Mr. J. Edgar Hoover
Director
The F.B.I.
Washington, D.C.

Dear Mr. Hoover:

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Will you please enlighten us on this "quotation" of yours and set the record straight once and for all?

Thanking you in advance, I am

Very truly yours,

[redacted]

b6
b7C

P.S. Self-addressed, stamped envelope is enclosed for your reply.

EX-103 PROC.
35 FEB 26 1962

REC- 91 94-1-369-1694

3-7
22 FEB 1962

CORRESPONDENCE

1 Enclosure (Returned)

1 T.C. 2-26-62

Ack 3-7-62 RLB:

OPTIONAL FORM NO. 10
5010-104-OF

UNITED STATES GOVERNMENT

Memorandum

TO : DIRECTOR, FBI ATTENTION: Mr. H. L. EDWARDS

DATE: 2/21/62

FROM : SAC, PHOENIX (80-0)

SUBJECT: MR. WALTER E. CRAIG
PRESIDENT-Elect
AMERICAN BAR ASSOCIATION

Mr. Tolson
Mr. Belmont
Mr. Mohr
Mr. Callahan
Mr. Conrad
Mr. DeLoach
Mr. Evans
Mr. Gale
Mr. Rosen
Mr. Sullivan
Mr. Tavel
Mr. Trotter
Tele. Room
Mr. Ingram
Miss Gandy

b6
b7C

Enclosed is a clipping indicating that WALTER E CRAIG of Phoenix has been chosen President-elec of the American Bar Association.

It is suggested that a letter of congratulations be sent to Mr. Craig by the Director. Phoenix files contain no derogatory information concerning him. He has been a good friend of the Bureau and a loyal admirer of the Director.

Enclosure (1)

2 - Bureau
1 - Phoenix (80-0)

ELB-kb
(3)

ENCLOSURE

I think this was done

letter was sent to Craig on 2-26-62.

94-1-369-1695

REC-42

FEB 26 1962

TWOLAW

COMM-FBI

F B I
RECEIVED-DIRECTOR

WALTER E. CRAIG
Chosen Unanimously

Phoenician Named Head Of U.S. Bar

Special to The Gazette

CHICAGO — Phoenix attorney Walter E. Craig was unanimously named president-elect of the American Bar Association at a breakfast here today.

Craig, who is a member of the law firm of Fennemore, Craig, Allen and McClennen, with offices in the First National Bank Building, is reported to be the first man in the history of the association to receive the unanimous vote.

THE 52-YEAR-OLD lawyer was born in California and received his law degree from the Stanford Law School in 1934. He was admitted to the Arizona bar in 1936 and has practiced in the state since.

In 1958, Craig, who lives at 2020 E. Bethany Home, was the first person from Arizona to be elected to the Board of Governors of the American Bar Association.

He served on the Council of the Junior Bar Conference and the American Bar Association in 1943 and 1944.

IN 1947, HE was a member of the house of delegates of the national organization.

Craig has served in all of the offices of the Maricopa County Bar Association and most of the offices of the State Bar. A member of the American Judicature Society, he is now serving as council for Mountain States Telephone and Telegraph Co.

During World War II, he served in the Navy.

AMONG HIS MANY civic positions, Craig has been Big Chief of the Phoenix Thunderbirds and director of the Sun Angel Foundation.

He will take office as president-elect this August and will become president of the American Bar Association during the summer of 1963.

ENC

8 APR 1962

Mr. Mason Walsh, M.E.
THE PHOENIX GAZETTE
Phoenix, Ariz., 2/20/62

RE: WALTER E. CRAIG
President
American Bar Ass'n
INFORMATION CONCERNING.

(Inf purposes)

94-1-369-1615

OPTIONAL FORM NO. 10

UNITED STATES GOVERNMENT

Memorandum

Tolson
Belmont
Mohr
Callahan
Conrad
DeLoach
Evans
Malone
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Ingram
Gandy

TO : Mr. Malone

DATE: 2/26/62

FROM : H. L. Edwards

SUBJECT: REQUEST FOR REPRINTS OF DIRECTOR'S ARTICLE "SHOULD IT BE LAW OR TYRANNY" AMERICAN BAR ASSOCIATION JOURNAL FEBRUARY, 1962

As you have been previously advised, the Director's article which appeared in the February edition of the ABA Journal was extremely well received [redacted] ABA's Committee on Communist Tactics, Strategy and Objectives, has requested 2500 reprints of this article. [redacted] stated that he intends to include a reprint in each kit of material which he hands out to those individuals attending the seminars on communism sponsored by his committee. [redacted] advised that if possible he would appreciate the reprints in a small booklet 3 3/4" by 8 1/4" which would be handy for carrying in an inside pocket. [redacted] stated that there are seminars on communism already arranged in Florida, Texas and Louisiana and that 2500 copies should be sufficient for these meetings.

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It is believed that if the size reprint could be made up which Rhodes has requested and that an attractive, but not elaborate, cover be prepared for it, it would certainly add a great deal in the way of eye appeal. It should be noted that [redacted] stated that if desired his committee would subsidize the cost of these reprints.

REC- 53 94-1-369-1696

EX-108

RECOMMENDATION:

That this matter be referred to the Crime Records Division so that these reprints may be made available to [redacted]

b6
b7C
b7D

Copy detached Plaff FH-

Requisition prepared 3-1-62 — SCL

ADDENDUM: AFH:jo 2-27-62:

Forty thousand reprints of this article have already been prepared and a copy is attached. Twenty-five hundred copies could be furnished to [redacted] immediately. In the event [redacted] wishes to have the American Bar Association prepare reprints according to the size and design he described, we certainly would have no objection, however, we do not believe it would be practical for the Bureau to prepare another reprint to meet his specifications.

53 MAR 14 1962

TDW:mvd (5)

Enclosure

1 - Mr. DeLoach
1 - Mr. Sullivan
1 - Mr. Callahan

I agree and suggest 500 of attached be sent to [redacted]

OPTIONAL FORM NO. 10

UNITED STATES GOVERNMENT

Memorandum

Tolson
Belmont
Mohr
Callahan
Conrad
DeLoach
Evans
Malone
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Ingram
Gandy

TO : Mr. DeLoach

DATE: 2-27-62

FROM : M. A. Jones

SUBJECT: DIRECTOR'S ARTICLE
"SHALL IT BE LAW OR TYRANNY?"
AMERICAN BAR ASSOCIATION (ABA) JOURNAL
FEBRUARY, 1962
DISTRIBUTION TO SPECIAL CORRESPONDENTS' LIST

The Director's article in the February, 1962, issue of the "ABA Journal" has evoked wide praise and has received considerable comment in various media. It is an exceptionally good analysis of the relationship of law to democratic principles and very effectively discourages extremism in the fight against communism. It is believed that reprints of the article would be most welcome and useful to individuals on the Special Correspondents' List.

RECOMMENDATION:

That this reprint be furnished to individuals on the Special Correspondents' List.

I Agree -

AFH:jo
(3)

REC- 19

8 MAR 8 1962

CRIME RESEARCH

OPTIONAL FORM NO. 10

UNITED STATES GOVERNMENT

Memorandum

Tolson
Belmont
Mohr
Callahan
Conrad
DeLoach
Evans
Malone
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Ingram
Gandy

TO : Mr. Evans

DATE: 2/28/62

FROM : W. V. Cleveland

SUBJECT: FEDERAL JUDGESHIPS

The Washington, D. C., press has during the past week published the comments of a representative of the American Bar Association (ABA) concerning eighty-five Federal judicial appointments which have been made by the Kennedy administration to date. In commenting on these appointments, seven were classified as "not qualified."

According to Assistant Deputy Attorney General [redacted] the seven referred to by the ABA were the following appointments:

b6
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Irving Ben Cooper, U. S. District Judge (USDJ), Southern District of New York;
Sarah T. Hughes, USDJ, Northern District of Texas;
Ben C. Green, USDJ, Northern District of Ohio;
Luther L. Bohanon, USDJ, Northern, Eastern and Western Districts of Oklahoma;
Charles G. Neese, USDJ, Eastern District of Tennessee;
Louis Rosenberg, USDJ, Western District of Pennsylvania; and
James R. Browning, U. S. Circuit Judge, Ninth Circuit.

An investigation of each of the above persons was conducted preliminary to his appointment and reports were furnished to the Deputy Attorney General. Our investigations disclosed that the above persons were considered unqualified from the standpoint of insufficient legal background and experience or being emotionally or temperamentally unsuited for a judiciary position.

ACTION:

Inasmuch as some question may arise at a later date concerning the identity of these seven individuals, this memorandum is being written for record purposes and a copy is being placed in each individual file.

1 - 77-87934 [redacted]
1 - 77-88126
1 - 77-44370
1 - 77-86214
1 - 77-88301
1 - 77-88439
1 - 77-12159

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94-1-369-

NOT RECORDED
MAR 2 1962

12 MAR 1 1962

ORIGINAL COPY FILED IN

XEROX
MAR 2 1962

FMF:amr
-12-

MAR 14 1962

UNITED STATES GOVERNMENT

Memorandum

Tolson
Belmont
Mohr
Callahan
Conrad
DeLoach
Evans
Malone
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Holmes
Gandy

TO : Mr. Mohr

DATE: March 5, 1962

FROM : C. D. DeLoach

SUBJECT: AMERICAN BAR ASSOCIATION (ABA)
ANTICOMMUNIST SEMINARS
COMMITTEE ON COMMUNIST STRATEGY
AND TACTICS
HOUSTON, TEXAS
APRIL 21, 1962

[redacted] b6 b7C b7D

[redacted] ABA's captioned committee, and Admiral Bill Mott, Judge Advocate, U. S. Navy (also a member of the ABA committee) called me to request that I make the same type speech during a seminar at Houston, Texas, 4-21-62, as recently made before the Missouri Bar members. [redacted] stated that there had been a good reaction to this talk and mentioned it would be greatly appreciated by him if the Director will allow this to be done. John Satterfield, President of the ABA, called 3-5-62 and issued the same invitation. I told them that a check would have to be made and that we would call them back.

Box 466 Yazoo City Miss.

I would like to decline this invitation for several reasons. First, it is absolutely necessary that I spend more time in the office. Secondly, we have already accommodated this group on a number of occasions and although the American Bar Association is very cooperative, we should not be expected to accommodate them in every instance. Thirdly, while I am perfectly willing to take on any group any place at any time in a question and answer period, I believe that it would be very bad to make this type speech in Houston, Texas, a hotbed of right-wing radicalism, where following the talk, there would be a forty-five-minute question and answer period. From a public relations standpoint, we could not win on this one. The right-wingers would be expecting us to go much further in our statements than we logically or factually could do. As a result, bad feelings would be engendered.

REC-34 94-1-369-1698

8 MAR 9 1962

ACTION:

That [redacted] Admiral Mott be advised that commitments in Washington prevent acceptance of this invitation.

b6 b7C b7D

1 - Mr. H. L. Edwards
1 - Mr. Jones

CDD:geg
(4)

62 MAR 15 1962

CRIME RESEARCH

authorized made for Mr. Edwards 3-7-62

4-572 (Rev. 2-19-60)
OPTIONAL FORM NO. 10

UNITED STATES GOVERNMENT

Memorandum

TO : The Director

DATE: 3-2-62

FROM : N. P. Callahan

SUBJECT: The Congressional Record

Pages 2002-2003. Senator Dirksen, (R) Illinois, spoke concerning the complacency in the United States toward the Communist threat. Mr. Dirksen stated "I will take the word of J. Edgar Hoover who stated 'Communism is the major menace of our times. Today, it threatens the very existence of our Western civilization.' - - - I am not an alarmist. I merely want our people, especially our leaders, to be eternally vigilant." Mr. Dirksen requested to have printed in the Record the report of the American Bar Association Special Committee on Communist Tactics, Strategy, and Objectives, which was filed with the House of Delegates of the American Bar Association in August 1958. References to the FBI, contained in this report, have been noted.

94-1-369-
NOT RECORDED
176 MAR 16 1962

Original filed in: 66-1731-

In the original of a memorandum captioned and dated as above, the Congressional Record for Thursday 3-1-62 was reviewed and pertinent items were marked for the Director's attention. This form has been prepared in order that portions of a copy of the original memorandum may be clipped, mounted, and placed in appropriate Bureau case or subject matter files.

50 MAR 16 1962

OPTIONAL FORM NO. 10

UNITED STATES GOVERNMENT

Memorandum

Tolson
Belmont
Mohr
Callahan
Conrad
DeLoach
Evans
Malone
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Holmes
Gandy

TO : Mr. DeLoach

DATE: 3-8-62

FROM : M. A. Jones

SUBJECT: AMERICAN BAR ASSOCIATION (ABA)
OFFICERS AND BOARD OF GOVERNORS, 1961-62

The purpose of this memorandum is to set forth the present officers and Board of Governors of the ABA as identified in the February, 1962, issue of the "American Bar Association Journal." Review of Bufiles concerning these individuals disclosed no unfavorable information with the exception of specific references indicated below:

OFFICERS:

President, John C. Satterfield, Box 466, Yazoo City, Mississippi;

President-Elect, Sylvester C. Smith, Jr., Prudential Plaza, Newark 1, New Jersey;

Chairman, House of Delegates, Osmer C. Fitts, 16 High Street, Brattleboro, Vermont;

Secretary, Joseph D. Calhoun, 218 West Front Street, Media, Pennsylvania;

Treasurer, [redacted] Ford Building, Detroit 26, Michigan;

The files indicate that during a Bureau Internal Security--IS investigation of one [redacted] New York City, it was determined that [redacted] had corresponded on two occasions with [redacted] in 1953. The purpose of this correspondence was not disclosed but there was no identifiable derogatory information regarding [redacted] obtained during this investigation, and the case on [redacted] was closed in 1954. (62-61574-8)

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Executive Director, Joseph D. Stecher, 1155 East 60th Street, Chicago 37, Illinois;

Assistant Secretary, [redacted] Bank of the Southwest Building, Houston 2, Texas;

94-1-369-1699

EX-108 REC-30

ELR:jol
(5)

(Continued on next page)

22 MAR 9 1962

CRIME RECORDS

53 MAR 16 1962

EX OFFICIO:

Richard Bentley, Editor-in-Chief, American Bar Association Journal, 120 South LaSalle Street, Chicago 3, Illinois;

Whitney North Seymour, Last Retiring President, 120 Broadway, New York 5, New York;

Seymour, who was president in 1960-61, is a prominent New York attorney and specializes in constitutional and antitrust law. He has a record of past affiliation with a number of organizations cited as subversive and has a reputation of being very liberal. He received his law degree from Columbia Law School in 1923 and became a member of the New York Bar in 1924. He held the position of Solicitor General of the United States from 1931 to 1933. His association with questionable organizations was confined primarily to the 1930s and 1940s. These organizations included the American-Russian Institute for Cultural Relations with the Soviet Union, of which he was Director in 1936, the American-Russian Chamber of Commerce in 1937 and the Russian War Relief, Incorporated, in 1941. Seymour addressed the National Lawyers Guild as a guest speaker in 1937 and in the same period successfully handled appeals in cases of Angelo Herndon and [redacted] Herndon, a Communist Party organizer, was convicted in state court in Georgia of inciting insurrection and [redacted] was under deportation orders for Communist Party activities. The American-Russian Institute for Cultural Relations has been designated under Executive Order 10450; National Lawyers Guild was cited by the House Committee on Un-American Activities as a communist front. The files reflect numerous questionable associations by Seymour in the past but there have been no indications of any such activities in recent years. b6 b7C

BOARD OF GOVERNORS (LISTED IN THE ORDER OF THE ABA CIRCUITS WHICH THEY REPRESENT, FIRST THROUGH TENTH):

[redacted] Depositors Trust Building, Camden, Maine;

Charles W. Pettengill, Box 1250, Greenwich, Connecticut;

[redacted] Delaware Trust Building, Wilmington 1, Delaware;

Egbert L. Haywood 111 Corcoran Street, Durham, North Carolina;

Jones to DeLoach Memo
RE: AMERICAN BAR ASSOCIATION (ABA)

[redacted] Citizens and Southern National Bank Building, Atlanta 3, Georgia;

Edward W. Kuhn, Box 123, Memphis 1, Tennessee;

Benjamin Wham, 231 South LaSalle Street, Chicago 4, Illinois;

Wham is a prominent Chicago attorney who in 1944-45 was listed in files as having been on the Board of Directors of the National Lawyers Guild. The National Lawyers Guild has been cited as a communist front as indicated above. (100-7321-1230)

Files do not indicate that Wham was a member of any questionable organizations after the 1940s and, in fact, he is noted to have made a strong anti-communist address before a meeting of the Chicago Literary Club in October, 1952, entitled "The Pro-Communist Conspiracy in our Midst." (62-75147-9) In October, 1956, Wham published an article entitled "While the Nation Sleeps" which detailed the threats to our society resulting from propaganda designed to change our form of government. This was published in the "Daughters of American Revolution" magazine. (94-1-135-1638) Files disclose no additional pertinent information regarding Wham.

[redacted] 1200 Alworth Building, Duluth 2, Minnesota;

Castle and Cook Building, Honolulu 2, Hawaii;

[redacted] was investigated by the Bureau in 1942 for position as U. S. Attorney in Hawaii. This investigation was favorable and disclosed that he received his LL.B. degree from Harvard Law School in 1926 and was admitted to the Hawaiian Bar that same year. [redacted] is a highly respected attorney in Hawaii representing a number of large business firms. b6 b7C

It was reported in 1955 by Ingram M. Stainback, Associate Justice, Supreme Court of Hawaii, that [redacted]

Bufiles contain no other unfavorable information regarding [redacted]

Edward E. Murane, Wyoming Bank Building, Casper, Wyoming;

RECOMMENDATION:

None. For information.

Board of Governors

AMERICAN BAR ASSOCIATI

American Bar Center

STANDING COMMITTEE ON ECONOMICS OF LAW PR
1961-1962

Mr. Tolson
Mr. Belmont
Mr. Mohr
Mr. Callahan
Mr. Conrad
Mr. Dussault
Mr. Evans
Mr. Malone
Mr. Rosen
Mr. Sullivan
Mr. Tavel
Mr. Trotter
Tele. Room
Miss Holmes
Miss Gandy

February 28, 196

Dear Fellow Member of the American Bar Association:

We are delivering to you herewith a Pamphlet on Articles of Partnership for Law Firms. This is the sixth in the series of publications prepared or sponsored by the Committee on Economics of Law Practice and distributed without charge to members of the Association.

It is believed that the contents of this Pamphlet will be of special interest to members of the bar. It should assist those who are considering the formation of law firms, as well as existing partnerships which are operating without written agreements or which may have incomplete or inadequate agreements. Studies by this Committee indicate that usually there are advantages, both to the lawyer and the public, from the practice of law in a partnership.

The co-authors of this Pamphlet, Paul Carrington of Dallas, Texas, and William A. Sutherland of Atlanta, Georgia, and Washington, D. C. are leading members of their respective bars. They have devoted many months to the careful preparation of what is believed to be a unique contribution to the available literature on the organization and management of law firms. We acknowledge our debt of gratitude to West Publishing Company, which has printed this Pamphlet without cost to the American Bar Association as a public service to our members.

94-1-362-1700

REC-46

16 MAR 13 1962

ENCLOSURE

ENCLOSURE ATTACHED

Sincerely,

[redacted]

b6
b7C

Chairman, Standing Committee
on Economics of Law Practice

3-6-62

6 MAR 16 1962

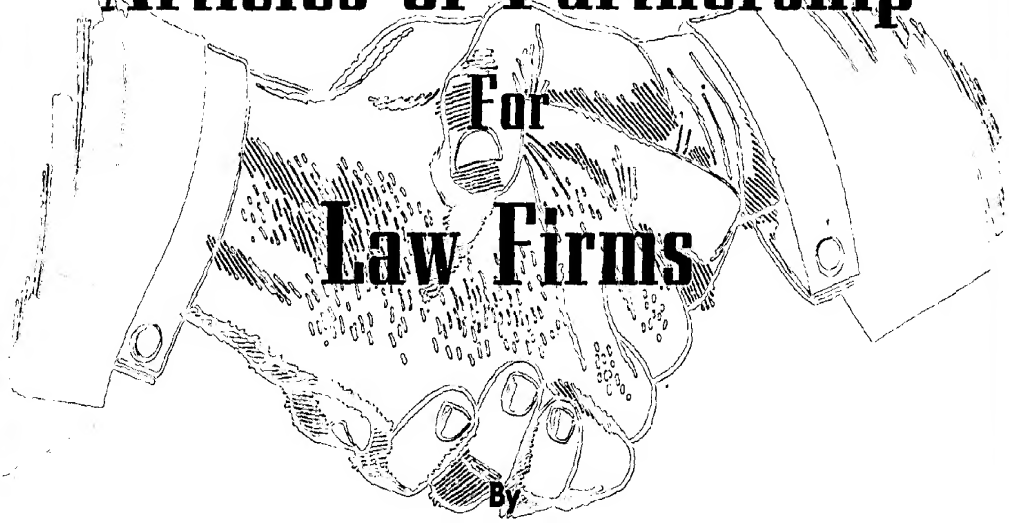
24/166

94-1-369-1700

ENCLOSURE

AMERICAN BAR ASSOCIATION
ECONOMICS OF LAW PRACTICE SERIES
PAMPHLET NUMBER SIX

Articles of Partnership For Law Firms



By
PAUL CARRINGTON and WILLIAM A. SUTHERLAND

Prepared for the

American Bar Association Standing Committee on Economics of Law Practice

Printed as a Public Service by
WEST PUBLISHING CO.

AMERICAN BAR ASSOCIATION

1961–1962

PRESIDENT

JOHN C. SATTERFIELD, Box 466, Yazoo City, Miss.

PRESIDENT-ELECT

SYLVESTER C. SMITH, JR., Prudential Plaza, Newark 1, N. J.

CHAIRMAN HOUSE OF DELEGATES

OSMER C. FITTS, 16 High St., Brattleboro, Vt.

SECRETARY

JOSEPH D. CALHOUN, 218 W. Front St., Media, Pa.

TREASURER

GLENN M. COULTER, Ford Bldg., Detroit 26, Mich.

ASSISTANT SECRETARY

GIBSON B. GAYLE, JR., Bank of the Southwest Bldg., Houston 2, Texas

BOARD OF GOVERNORS * †

THE PRESIDENT,
THE PRESIDENT-ELECT,
THE CHAIRMAN OF THE HOUSE OF DELEGATES,
THE SECRETARY,
THE TREASURER,
WHITNEY NORTH SEYMOUR, *Last Retiring President*, 120 Broadway, New York 5, N. Y.
RICHARD BENTLEY, *Editor-in-Chief of the American Bar Association Journal*, 120 S. LaSalle St., Chicago 3, Ill.
} *Ex officio*

First Circuit .....DAVID A. NICHOLS, Depositors Trust Bldg., Camden, Maine (1963)
Second Circuit .....CHARLES W. PETTENGILL, Smith Bldg., Greenwich, Conn. (1963)
Third Circuit .....WILLIAM POOLE, Delaware Trust Bldg., Wilmington 1, Del. (1964)
Fourth Circuit & Dist. of Col. Circuit .....EGBERT L. HAYWOOD, 111 Corcoran St., Durham, N. C. (1962)
Fifth Circuit .....WILLIAM B. SPANN, JR., C & S Nat'l Bank Bldg., Atlanta 3, Ga. (1964)
Sixth Circuit .....EDWARD W. KUHN, Box 123, Memphis 1, Tenn. (1963)
Seventh Circuit .....BENJAMIN WHAM, 231 S. LaSalle St., Chicago 4, Ill. (1962)
Eighth Circuit .....DONALD D. HARRIES, Alworth Bldg., Duluth 2, Minn. (1962)
Ninth Circuit .....J. GARNER ANTHONY, Castle & Cooke Bldg., Honolulu 1, Hawaii (1964)
Tenth Circuit .....EDWARD E. MURANE, Wyoming Nat'l Bank Bldg., Casper, Wyo. (1963)

* Year shown in parentheses indicates expiration of term.
† For Sub-Committees, see page 2.

Articles of Partnership For Law Firms

By

PAUL CARRINGTON and WILLIAM A. SUTHERLAND

Prepared for the

AMERICAN BAR ASSOCIATION

Standing Committee on Economics of Law Practice

LUTHER M. BANG
JOHN D. CONNER
PHILIP S. HABERMANN
CULLEN SMITH
E. B. SMITH
GERALD C. SNYDER
LEWIS F. POWELL, JR., Chairman

This is a discussion pamphlet prepared for the information of the members of the American Bar Association. It has not been considered by the officers, the Board of Governors or the House of Delegates of the Association. Nothing in the pamphlet shall be construed as reflecting the actions or recommendations of the American Bar Association.

FOREWORD

The Committee on Economics of Law Practice of the American Bar Association is pleased to present to members of the Association this pamphlet on Articles of Partnership for Law Firms. This is the sixth in the series of publications prepared or sponsored by this Committee.

It is believed that there is a special need for a pamphlet or handbook on this subject. Although a substantial majority of the lawyers of America are solo practitioners, all studies and surveys indicate that members of law partnerships enjoy on the average substantially higher incomes than do solo practitioners. The evidence supporting this conclusion is too impressive to be ignored. Moreover, there are usually other advantages from the practice of law in a partnership. The sharing of overhead usually increases the percentage of net income; the combining of different talents and abilities may improve capacity to render service and stimulate client confidence; the availability of partners permits continuity of service during vacations and illness; and, with an increasing trend toward specialization in certain areas, a partnership will facilitate this and thereby increase productivity.

In short, while recognizing that there will always be a place for the solo practitioner (who by his independence and individual resourcefulness has contributed much to the vitality of the American Bar), this Committee believes that the increased use of the law partnership will improve the economic status of lawyers and also significantly enhance their capacity to render efficient service to the public.

It is therefore hoped that this pamphlet will encourage the formation of law firms. It is also hoped that the availability, in convenient form, of the material contained herein will be helpful to the many existing law partnerships which are operating without written agreements or which have incomplete or inadequate agreements.

The co-authors of this pamphlet are Paul Carrington of Dallas, Texas, and William A. Sutherland of Atlanta and Washington. Both are leading members of their respective bars, and are widely known for their varied and constructive contributions to the legal profession. In their careful preparation for the writing of this

pamphlet, the co-authors collected and analyzed what is believed to be a larger group of partnership agreements in use by representative law firms of varying sizes, than ever before assembled.

It is believed that Messrs. Carrington and Sutherland have made a unique contribution to the available literature on the organization and management of law firms, as we know of no other comparable study. However, the co-authors properly caution the reader to consider the various provisions merely as suggestions for consideration, comparison and study. They emphasize that each partnership agreement must be carefully tailor-made to fit the circumstances and wishes of the particular partners.

The Committee wishes to record its thanks to Messrs. Carrington and Sutherland for their long and painstaking work on this project. We also wish to thank West Publishing Company, which has printed this pamphlet as a service to the members of the American Bar Association.

November 1961

COMMITTEE ON ECONOMICS OF LAW PRACTICE

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CONTENTS

Caveat

Those considering the adoption or revision of any agreement of partnership for a law firm are urged to consider the provisions of the form of partnership agreement for smaller firms in Chapter One and the more detailed form of articles of partnership in Chapter Two and each of the additional or alternative provisions there suggested.

None of the forms and suggestions contained in this pamphlet are recommended by the authors. Rather, the authors urge the partners of each law firm to consider alternative suggestions and that each firm make its own decisions, especially bearing in mind the seven points as to use of this pamphlet enumerated on pages 10, 11 and 12.

INTRODUCTION

This pamphlet has been prepared for members of the American Bar Association who are interested in forms of agreements for law partnerships. Chapter One contains a form of partnership agreement suitable for use by small law firms. Chapter Two presents a suggested form of more detailed articles of partnership with an explanation of each provision and discussion of numerous alternatives for many of the provisions.

This introduction contains general information as well as specific suggestions as to the use of this pamphlet. It is believed that interested lawyers will derive maximum benefit from this pamphlet by reading first the introduction and then studying and comparing the forms and detailed provisions contained in the two chapters.

It may be useful, at the outset, to indicate specifically the purposes of this pamphlet:

1. **Improve existing agreements.** To provide material which may be helpful in the improvement of existing partnership agreements.

2. **Encourage written agreements.** To encourage existing firms which have no written agreements to prepare and adopt such agreements.

3. **Stimulate formation of partnerships.** To stimulate and encourage solo practitioners to consider the organization of law firms and to adopt written agreements of partnership.

The survey which preceded the writing of this pamphlet indicates that a majority of the lawyers who practice as partners are doing so without a written agreement. It hardly need be said that this is a practice which few lawyers would recommend to a client. To a certain extent, the failure of a law firm to have a written partnership agreement indicates the same sort of neglect of one's own affairs as the failure to write a will. Substantial property rights are involved, and should be protected by a carefully prepared written agreement. The possibility of friction and misunderstanding among partners will be minimized, and the efficient functioning of a law firm facilitated by such an agreement.

A substantial majority of lawyers in private practice are solo practitioners.[1] So far as we are aware, there is no statistical

[1] According to the Martindale-Hubbell tabulation of 1958, 80.1% of all listed lawyers were in private practice that year, the remainder being in private

data indicating why this is so. The financial advantage of practice with partners is apparent. It has been demonstrated that lawyers, on the average, earn more as members of a firm of two than as solo practitioners, and that the average earnings of members of law firms increase as the size of the firm increases.[2]

Other advantages of practicing with partners have been frequently discussed.[3]

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industry, public employment, retired, etc. Of the 80.1% in private practice, 64.8% were solo practitioners (they constituted 51.9% of all of the listed lawyers of that year): American Bar Foundation, "1958 Distribution of Lawyers in the United States," page 30. That percentage of those in private practice in 1958 who were solo practitioners, 64.8%, is contrasted with the 1949 figure of 69.2%: American Bar Foundation, "Distribution and Income of Lawyers of the United States" published 1956, page 37. According to the Martindale-Hubbell tabulation of 1961, 76.88% of all listed lawyers are in private practice this year, and of these in private practice 60.78% are solo practitioners (they constitute 46.73% of all of the listed lawyers of this year): Journal of American Judicature Society, November 1961, page 119.

[2] See Table VII, page 12 of the American Bar Association series of pamphlets on Economics of Law Practice, Pamphlet Two, published 1958: "Lawyers' Economic Problems and some Bar Association Solutions."

[3] At the request of the Committee on Economics of Law Practice, the following quotations are taken from prior discussions by one of the authors, with reference to the advantages of practicing with partners:

> "There are many advantages other than financial that a lawyer may gain from having at least one partner. If the advantage were solely financial it would seem to be of less importance to the rest of us practicing law; for all of us might then feel that each lawyer should be free to make his own decision on whether to practice solo. But it can be clearly demonstrated that the quality of service that a partnership of two lawyers can render to its clients is superior to the quality of service that can be rendered to his clients by either of the partners alone.
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> "The occasions are frequent where two heads are better than one. The backgrounds of two partners of varying experience and differing approaches to the same problem, time and again demonstrate this in every firm. The solo practitioner who consults casually some colleague down the street for his 'horseback opinion' may think he is getting the benefit of team effort in this respect but we are convinced is almost always mistakenly kidding himself.
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> "Even in the simplest of offices, a fair and equitable division of work often involves one partner usually taking all or most of one type of work in the office and another partner taking all or most of another type of work. Even in a two-man office there is a tendency toward that division of work which will give to the firm the benefit of the increased experience in frequent repetition in performing the same type of service. The law is so complex and has so many fields where proficient lawyers are now specializing, that it is increasingly difficult for the solo practitioner to keep up in all fields in which he is asked to serve his clients without thorough research applicable to that client alone. The lawyer who han-

We suspect that many solo practitioners have been deterred from entering into a partnership because of fears which adequate consideration might well dispel. We hope that the discussion in this pamphlet of the wide variety of possible partnership agreements will bring to the attention of many solo practitioners the means of avoiding disadvantages which they fear and will cause many of them to seek the substantial advantages offered by practicing with partners. A careful consideration of the provisions of the form of agreement suggested in Chapter One and some of the alternatives thereto suggested in Chapter Two will make it apparent that many worries of solo practitioners about the unknown hazards of a partnership can be eliminated.

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dles recurrent problems of the same type from time to time has an advantage over the lawyer who does not do that.

"The ability to handle legal matters for clients more promptly and in a more orderly fashion can be achieved to a greater extent in a two-lawyer office than by the solo practitioner. All other work of a solo practitioner often suffers during periods when he is monopolized in one employment, as for example when engaged in the trial of one lawsuit or in detailed preparations therefor. Absences of a lawyer from his office must be expected, while on vacation or while ill, while attending bar or civic meetings, and while engaged elsewhere on professional services. Work that should be performed for a client may proceed even during such an absence under direction of a partner of the absentee. Work of the solo practitioner while absent tends to a much greater extent to remain at a standstill. Though in any partnership some delays and interruptions in the service of a client on any extended matter is unavoidable if the partner who is absent is primarily working on the matter, it seems very clear that in a two-partner firm these causes for delay so often irksome to a client are greatly reduced as contrasted with the situation with which a solo practitioner is faced.

"Teamwork always inspires best efforts. When any of us knows from day to day that the efforts we are devoting to our professional duties and to what effect are currently known of and evaluated by other lawyer or lawyers in our own office, the tendency is for each of us to keep in harness. A partner serving his and my firm faithfully constantly serves as a daily challenge to my best efforts.

"Of course, the advantages of a partnership are dependent upon the professional ability of the partners, the personal character of each and the ability of each to work as a member of a team. The disadvantages of being a partner with one who fails in these essentials may well outweigh the advantages. But wherever one professionally able to carry his share of the work can be found, ways to minimize any disadvantages and to accentuate the advantages are suggested in the rich experience of others who have profited from partnerships in the practice of law."

These quotations are excerpts from Carrington, "Outline of Discussion of Practicing Law with Partners," Wisconsin Bar Journal, February 1953; "How Some Lawyers Have Increased their Law Office Income," New York State Bar Bulletin, February 1954; "Advantages of Partnerships," Illinois Bar Journal, July 1954.

In the case of lawyers organizing a small firm for the first time, we suggest consideration of a tentative trial period of partnership. This would continue, say for a year or two, to enable the partners to judge the desirability of the relationship, and also to test the effectiveness and suitability for their particular purposes of their partnership agreement. The new firm could well start with an agreement along the lines of that set forth in Chapter One. If and when the partnership grows and prospers, consideration can then be given to the adoption of more detailed and definite provisions such as those contained in Chapter Two.

It should be commented here, in thinking of the long term life of a larger firm, that the bold-face form of the articles of partnership presented in Chapter Two is not considered typical of the large, established firm, which has become institutionalized to the point where it is expected to continue beyond the lives of its present partners. Rather, the bold-face form in Chapter Two is more appropriate for a growing firm which, though aspiring to such size and stability, is still on its way toward achieving it. That bold-face form, modified by use of several of the alternative provisions suggested in Chapter Two would be more typical for the fully institutionalized type of firm.

Since each firm, before choosing the type of agreement best suited for it, must decide for itself the questions of policy implicit in the choice between alternative provisions presented in this pamphlet, and since the choice between these alternatives must be made in the light of the wishes of the partners, the authors make no recommendations as to the adoption of any particular provision. All the contents hereof are merely suggestions to be considered. The final choice must, in each case, be made by the partners of each firm in light of their own wishes and requirements.

Points as to the Use of this Pamphlet

1. **Organizing the Small Firm.** If three solo practitioners contemplate the organization of a new partnership, or if an existing firm of three partners considers the suggestions in this pamphlet, it clearly should not be their decision to adopt the form of agreement in Chapter One merely because, after a first discussion of its provisions, it seems (if it does) to be generally agreeable. Rather, each should consider with each paragraph of the suggested form in Chapter One the comparable provision and the alternatives suggested in the articles in Chapter Two. After each has separately considered these provisions, and after they have discussed them fully, the partners should then adopt a form of agree-

ment designed to suit the needs of their own firm. Especially if they have never been members of a partnership, they may prefer to agree only on certain matters before organizing their firm, leaving other matters for future agreement between themselves. Before doing this, however, they should first be satisfied that agreement on these remaining points can reasonably be expected.

2. **The Larger Firm—Consideration of Alternatives.** If a larger law firm is being formed, or articles of partnership for a larger firm are being prepared for the first time or are being revised, all partners should consider the various alternative suggestions in Chapter One and in the bold-face and in the comments of Chapter Two. Especially if there are as many as five partners or so, we feel that a complete written agreement is greatly preferable to one which leaves substantial areas to be covered merely by verbal discussions or by intentions to agree. For in addition to the original partners, numerous other parties may be vitally affected by the specific provisions of the agreement or by the failure to arrive at a complete meeting of the minds. The original partners should prepare a tailor-made agreement to meet their own needs and those of their successors-in-interest to the extent they can foresee future needs.

3. **Provisions Interrelated.** It is self-evident that changes in some of the provisions of either of the suggested forms may require changes in other provisions of the same form. Numerous provisions of the suggested forms are interrelated. The language of any paragraph taken from those suggested in this pamphlet must be considered in its relation to all other provisions of the document in which it is used.

4. **Consideration of Applicable State Law.** The authors do not attempt to pass upon the impact of the statutes and decisions of any individual state upon the validity or the construction of any provision presented in Chapter One or Chapter Two. Each firm must satisfy itself on this item by item, before finally adopting articles of partnership.

5. **Impact of Taxes.** The views presented as to the tax aspects of any of the various provisions suggested relate solely to federal income and estate taxes and, except as otherwise stated, to existing statutes, regulations and decisions. Each firm must satisfy itself as to the impact of other taxes on its proposed agreement.

6. **Periodic Review of Applicable Law Desirable.** No lawyer should assume that provisions of his articles of partnership will

remain valid indefinitely. The applicable rules, regulations and decisions should be reviewed at regular intervals. A continuing study of professional literature on the subject may develop ideas justifying changes in the articles of any firm. Assignment to one partner of the duty to follow legal literature and changes in law, regulations and decisions on the subject will tend to assure that appropriate amendments are made as the need arises.

7. **Changes in Firm.** Provisions of articles of partnership deemed appropriate at the time the document is adopted may not remain appropriate after changes in the firm. Each firm should carefully re-study its articles of partnership at agreed regular intervals, say each five years or oftener, to determine whether changed conditions (with respect to the firm, the partners and prospective partners, the community, or the profession) justify or require changes.

Source Material for this Pamphlet

For source material, we asked each of a number of leaders of the bar in various states to recommend to us one-hundred law firms in the United States that generally were considered to be efficiently organized. We found that fifty-seven firms were on a majority of the lists presented to us. Accordingly, we requested John C. Satterfield, then Chairman of the Committee on Economics of Law Practice, to ask each of those fifty-seven firms to send to the Chicago office of the American Bar Association in plain envelope (so as to assure anonymity) a copy of its current Articles of Partnership, after deletion of all references to the named of the firm and its partners, and to the city and state of any of its offices. He explained that the documents would be used solely in the preparation of this pamphlet. A number of the firms replied that they had no written agreement; others stated that they were not complying because they considered their agreements tentative and not helpful; a few said that they did not desire to comply. But a majority did comply. On examination of the documents submitted we found a need for more forms to permit us to determine the prevalence of certain provisions, or of alternative provisions. Accordingly, a similar request was addressed to an additional sixty-eight firms similarly chosen. From the total of one-hundred twenty-five requests thus made we received, for analysis in preparation of this pamphlet, copies of seventy-nine existing written agreements.

After analysis of these, we asked for a third set of partnership agreements currently in use. For, although almost all of the forms previously submitted to us were completely anonymous, it was apparent that most of them were prepared for use in relatively large firms—we would guess from ten to twenty partners, or more. Hence we asked each state delegate in the House of Delegates of the American Bar Association to obtain for us the written agreements used by two small (not more than three partners) but highly esteemed law firms of his state.

As a result of this third request we received forty-five written agreements. Some were prepared thoroughly but most were mere skeletons of the type agreement that the partners, as lawyers, would be willing to submit as appropriate Articles of Partnership to clients who were about to organize a business partnership. Replies from the other small firms were that they had no written agreement, or that they considered their agreement too brief to be helpful.

We were furnished and have analyzed one-hundred twenty-four agreements. We were advised that forty-two firms of the two-hundred twenty-five solicited had written agreements but preferred not to submit them. Forty-one of the two-hundred twenty-five did not reply. We feel sure that we have been privileged to study the largest number and, on an average, the best collection of Articles of Partnership for law firms ever assembled.

We carefully analyzed all provisions of all of the agreements submitted to us and contrasted the numerous ways in which the same points were dealt with therein, and after drafts and redrafts of this document we now present in this pamphlet (i) a form of agreement for a three-member firm (Chapter One) and (ii) a more detailed agreement with editorial comments and various alternative provisions (Chapter Two).

Bibliography

We are indebted to many lawyers who have studied and written about the problems dealt with in this pamphlet. They have presented in varying ways many of the ideas discussed in this pamphlet. To lawyers who are interested in less limited study, we commend:

(1) HANDBOOK OF PARTNERSHIP TAXATION (1957) by Arthur B. Willis, recently a member of the Council of the ABA Section of Taxation. See Appendix G for a suggested form of professional partnership agreement and Appendix H for comments thereon.

(2) THE DRAFTING OF PARTNERSHIP AGREEMENTS (1955) by John E. Mulder and Martin M. Volz—one of a series of practice handbooks published by the Committee on Continuing Legal Education of the American Law Institute, collaborating with the American Bar Association. It contains forms for general partnerships.

(3) Two volumes of reprints of selected articles from THE PRACTICAL LAWYER, a magazine dedicated to current problems of practice and legal techniques, these two volumes each being "THE PRACTICAL LAWYER'S LAW OFFICE MANUAL," the first being the 1956 edition and the second the 1959 edition. Chapter 4 of the first of these two editions is an article by H. Bradley Jones on the Law Partnership Agreement with a suggested form.

(4) AN AGREEMENT FOR A LAW PARTNERSHIP (1956) by Frederick Sammond, an article in the Wisconsin Bar Bulletin with a suggested form attached.

(5) LAW OFFICE PARTNERSHIP AGREEMENTS (1954) by Jackson L. Baughner, an article in the Illinois Bar Journal with a suggested form attached.

(6) LAW FIRM ORGANIZATION (1940) by Reginald Heber Smith, a series of four articles in the American Bar Association Journal; copies of all four articles reprinted in a pamphlet are available at the cost of fifty cents at the offices of the American Bar Association in Chicago.

Due to limitations of space we must limit our references to these six.

We also are grateful for the help, encouragement and gracious assistance of the members of the Committee on Economics of Law Practice; for the generosity of West Publishing Company in printing and distributing this pamphlet as a service to all members of the American Bar Association; to those one-hundred twenty-four law firms which, anonymously in most instances, provided the materials which made this study possible; to the State Delegates who assisted in procuring sample agreements; and to those in our own offices who have been of substantial assistance to us in this project.

PAUL CARRINGTON
WILLIAM A. SUTHERLAND

November 20, 1961.

CHAPTER ONE

A FORM OF PARTNERSHIP AGREEMENT FOR FIRMS OF THREE PARTNERS

Suggested Also for Use, with Variations, by other Firms, Primarily Those of Less than Five Partners

(*See Caveat on page 5*)

PARTNERSHIP AGREEMENT FOR THE LAW FIRM OF "X & Y"

1. **The Partners of the Firm; the Purpose of the Firm; Its Firm Name; Its Term.**

   (a) X, Y and Z, each a resident of the County of _____ and State of _____, hereby organize a new law firm to be named "X & Y."

   (b) The firm is organized for the practice of law with offices in this county and state, and for no other purposes, except such usual operations in the purchase, ownership and disposition of properties, the maintenance of records, and the conduct of other business as is incidental to the practice of law.

   (c) The name of the firm shall continue as herein provided unless a change shall be expressly agreed to by all partners; provided that whenever any partner whose name is in the firm withdraws, retires, or ceases for any other reason to be an active partner in the firm, his name shall be dropped from the firm.

   (d) The partnership shall continue from this date until dissolved in accordance with the terms hereof.

   [*Alternative provisions that should be considered at the same time with this paragraph 1, are suggested as to Article I of Chapter Two, pages 28 to 36.*]

2. The original capital of the firm shall consist of the capital contributions now made by the respective partners as shown on Exhibit A attached hereto. The partners may make additional contributions of capital or withdrawals from the capi-

tal of the firm from time to time only if agreement therefor shall be evidenced by an amendment to Exhibit A.

[*Alternative provisions that should be considered at the same time with this paragraph 2, are suggested as to Article II of Chapter Two, pages 36 to 40.*]

3. The partners shall share in all net profits and bear all losses of the firm in the following percentages:

X 40%
Y 40%
Z 20%

Distributions of net profits shall be made in the ratio of such percentages, to the extent the funds on hand and prospective needs of the firm for cash will permit, from time to time during the year, as the partners decide. When and if the partners decide that temporary advances for current pending needs of the firm are necessary, they will be made in the same percentages. All such advances shall be repaid pro-rata out of income, and no further distributions of net profits shall be made until all such advances are fully repaid. As of the end of the year the remaining net profits will be divided in the ratio provided above, unless by unanimous agreement a sum be paid to any partner as a bonus for his year's work, in which event the balance after any bonuses to any partners will be so divided.

[*Alternative provisions that should be considered at the same time with this paragraph 3, are suggested as to Article III of Chapter Two, pages 40 to 46.*]

4. **Voting of Partners as to all Firm Decisions.**

(a) Each partner shall have one vote on all matters to be decided by the firm which are not delegated to one or more of the partners. Except as otherwise provided, two rather than three affirmative votes shall be required to adopt any firm decision. Any partner may vote on any matter, if not present, by general or specific proxy to a partner present or by specific instruction in writing.

(b) The unanimous vote of all partners shall be required for any amendment to this agreement, excepting only:

(i) Any amendment by operation of law.

(ii) In the event of the death of a partner, his partnership interest shall be terminated and the firm thereupon shall consist of the surviving part-

ners without the necessity of any amendment; the decedent's share as a partner, in the capital of the firm and in its net profits and losses thereafter (but not the right of his estate or nominee to payments provided for in paragraph 5(b) hereof) and his right to vote on any firm matter shall terminate with his death, without any vote or formal amendment so providing.

(iii) On affirmative vote of any two partners and without the requirement of a third vote, there may be any amendment as to the capital of the firm (paragraph 2 hereof), as to management matters (paragraph 7 hereof) or as to a termination of the firm (paragraph 8 hereof).

(c) Notwithstanding any interest of a partner personally in any matter to be voted on, differing from the interest of the firm or the interest of other partners, that partner shall nonetheless be entitled to vote on such matter; provided, that if a partner shall give notice of his voluntary withdrawal from the firm, the non-withdrawing partners only may thereafter vote to dissolve the firm, as provided in paragraph 5(c) hereof.

[*Alternative provisions that should be considered at the same time with this paragraph 4, are suggested as to Article IV of Chapter Two, pages 46 to 49.*]

5. **Changes as to Partners.**

(a) There shall be no change in the personnel of the partners of the firm or in the respective rights and interest of any partner in the net profits, and no change in his right to vote on decisions of the firm, unless the change is agreed to by all partners and is evidenced by an amendment hereto, excepting only an amendment adopted as provided in paragraph 4(b) hereof.

(b) In the event of the death of a partner, the firm shall be indebted to his estate (or to any nominee or nominees in lieu of his estate, specified in any written agreement between the decedent and the firm), and it shall pay in cash, in four equal quarterly installments, in payment for the extinguishment as of the date of death of all the rights and interests of the decedent in the firm, and its capital, income and properties, an amount aggregating the total of the following sums set forth in subparagraphs

(i), (ii) and (iii) hereof, adjusted as provided in subparagraph (iv) hereof:

(i) The amount of the decedent's net capital in the firm, as of the date of his death.

(ii) His pro rata share of the net profits of the firm, for the current year of the firm, calculated to date of his death, less all distributions he had received from the firm on account of its net earnings during the year.

(iii) His pro rata share of any amounts, determined by his surviving partners to be their estimate in their discretion, of any payments to be received by the firm after the date of death for services rendered by the firm prior to his death, whether or not such services had been billed at the time of his death.

(iv) Any other net sum owing to him by the firm not included in (i) or (ii) or (iii) shall be added to, or any net sum owing by him to the firm shall be deducted from, the total thus computed.

(c) Any partner may voluntarily withdraw from the firm at any time on thirty days written notice to his other partners. Within that thirty days the other partners may decide (he having no vote on that decision while his withdrawal is pending) to dissolve the firm. If they so decide, the firm shall dissolve and liquidate, and all partners, including the one who proposed to withdraw, shall share in the liquidation as hereinafter provided. But if the non-withdrawing partners (then one or more) do not decide to dissolve, then the voluntary withdrawal of the partner shall become effective as of the thirty-first day after his notice, and he shall be paid by the firm the same amounts, and over the same period of time, that his estate would have been paid had he then died, subject to the following exceptions:

(i) The continuing firm at its option, instead of paying him the amount of his net capital in cash may (to the extent that the firm has invested capital in such assets) pay him his net capital (or a part thereof) in the form of his pro rata share of the furniture, fixtures, library and equipment of the firm.

(ii) As to all items of current employment of the firm where the withdrawing partner was the responsible partner in charge (subject to the right of each client to direct that such matter be retained by the continuing firm), the withdrawing partner may assume all further responsibilities, take the files and documents on such matters, paying the firm all unreimbursed expenditures for the client in each matter. The withdrawing partner shall thereafter bill the client for and be entitled to collect all such unreimbursed expenditures and all uncollected fees in such matters for all services of the firm, up to the effective date of withdrawal, as well as advances thereafter made and fees for services thereafter rendered. The withdrawing partner shall account to the continuing firm in quarterly annual installments on fees collected by him for services of the firm rendered prior to the effective date of withdrawal, whether or not such services had been billed at the time of withdrawal, dividing same between his former partners and himself on the basis on which they shared in the profits of the firm at the time of withdrawal.

[*Alternative provisions that should be considered at the same time with this paragraph 5 are suggested as to Article V of Chapter Two, pages 49 to 82.*]

6. **Duties of Partners.**

(a) Each partner shall maintain his license and privilege to render professional services in accordance with his admission to practice law in the State of _____ and in the courts and administrative bodies in which he shall have occasion to practice. Each partner shall at all times comply with all of the provisions of the canons of professional ethics as adopted by the American Bar Association and by the State Bar of _____ and with the statutes, rules, and regulations covering all professional services that he shall render.

(b) All attorney-client relations between each of the partners and his clients, existing at the time of the organization of the firm, shall continue; and in all future employments of the firm by each such client, that attorney-client relationship shall continue. That partner shall at all times

continue to be the one responsible as to all employments of the firm to serve that client; he shall render the services or supervise the services rendered by others and shall keep the client advised generally in connection with all such employments; and, after consulting with his partners when circumstances justify, he shall determine finally the terms and conditions of all employments of the firm by that client. All fees to be charged such client shall be determined finally by him. The parties hereto recognize the great assistance which, especially by reason of their diverse backgrounds and experience, they can render to each other in assuring the development and growth of such existing relationships. All of them agree that to that end they will upon request, to the extent feasible, assist the responsible partner by consulting and advising with him and rendering such services as they may be in a position to render and by doing any and all other things they can do to see that the services rendered by the firm in each such employment are most effective.

(c) It shall be the duty of each partner to act at all times consistently with and in compliance with all and each of the provisions of this agreement and with all policies, rules and decisions of the firm adopted in accordance with any of the provisions of this agreement.

[*Alternative provisions that should be considered at the same time with this paragraph 6 are suggested as to Article VI of Chapter Two, pages 82 to 85.*]

7. **Management of the Firm.**

(a) Except as otherwise herein expressly provided (as, for example, where unanimity of the partners is required), or except as otherwise required by law, the three partners, by majority vote or by joint action of a majority, shall at all times have and exercise all the power, authority, and responsibility for management of the firm. By such vote or action they may delegate all or part of the authority so vested in them, and may at any time cancel prospectively any delegation of authority.

(b) Among other management authority so vested in the partners are the following:

(i) The adoption of firm policies or rules relating to all or any of the matters mentioned in subparagraphs (ii) to (vii) of this paragraph.

(ii) The supervision of the general character and quality of the professional services rendered by each partner and each associate of the firm, of the amount of time and effort being devoted to professional services by each, and of the amount of his non-firm activities, civic, charitable, religious, business, or otherwise.

(iii) Subject to the provisions of paragraph 6(b) of this agreement, applicable to pre-partnership clients of any one of the partners, the acceptance or rejection of all employments and the determination of the terms and conditions of each employment.

(iv) All decisions as to the selection and compensation of the associate-lawyers of the firm and all other employees.

(v) All decisions as to the acquisition, maintenance, repair, and replacement, of all physical assets of the firm.

(vi) All decisions as to the files, forms, financial and accounting records, and the tax returns of the firm, and as to the periodic accountings to be made to each partner of assets, liabilities, and net income of the firm.

(vii) All decisions as to insurance and as to investments of the firm.

[*Alternative provisions that should be considered at the same time with this paragraph 7, are suggested as to Articles VII, VIII and IX of Chapter Two, pages 86 to 96.*]

8. Termination and Liquidation of the Firm.

(a) The partnership may be terminated at any time, but (except as otherwise required by law) only by affirmative vote, at a partnership meeting called expressly to consider termination, of at least two partners.

(b) In the event of the termination of the partnership, no further professional services shall be rendered in the partnership name and no further business transacted in the partnership name except the taking of action necessary for the winding up of the affairs of the partnership and the distribution or liquidation of its assets. Maintenance of offices to effectuate or facilitate the winding

up or liquidation of the partnership affairs shall not be construed to involve a continuation of the partnership. In advance of the effective date of the termination of the partnership, the "liquidation committee" (as constituted in accordance with the next paragraph hereof) shall assign every uncompleted professional service to one or another of the partners on such terms as shall be agreeable to the clients involved, and the responsibility therefor from the effective date of the termination shall be upon such partner individually. Each pending employment covered by the provisions of paragraph 6(b) of this agreement shall be assigned, if the client involved acquiesces, to the partner responsible therefor under the provisions of that paragraph.

(c) If, at the effective date of the determination that there shall be a dissolution and liquidation, there are three partners, they shall be the "liquidation committee" for liquidation and dissolution; if then there are only two partners, those two are hereby designated as such committee, and if during liquidation only one partner remains he shall constitute the "liquidation committee." The members of the "liquidation committee" shall serve until the dissolution and liquidation is final and complete, provided that, in the event of the death, disability, or resignation of any member of that committee, the remaining member or members shall be fully authorized to act without any replacement on the committee. Further, if there is only one member of that committee, he shall be authorized in his discretion to name as liquidation trustee anyone he chooses against the possibility of his own death, incapacity, or resignation. In the event of the death, incapacity or resignation of the last remaining member of the liquidation committee, the liquidation trustee shall serve in his stead. The liquidation committee shall determine all questions as to the winding up of the business affairs of the partnership (not involving the termination of its professional employments for services), including the sales or partitions of properties incident thereto and any and all other problems involved in completing the dissolution of the partnership. The members of the liquidation committee shall serve without compensation, but shall be reimbursed for liquidation expenses; the liquidation trustee shall be paid reasonable compensation for his services. The committee in its dis-

cretion may employ any person or persons to assist in the fulfillment of its duties.

(d) The assets and proceeds of the liquidation shall be applied by the liquidation committee in the following order:

(i) To the payment of the debts and liabilities of the partnership owing to creditors other than partners, and the expenses of liquidation.

(ii) To the payment of the debts and liabilities owing to the partners.

(iii) To the repayment to the partners of the net capital of each.

(iv) Any assets remaining, to be divided among the partners in the ratio of their respective percentages of net profits immediately prior to the termination of the partnership.

If any partner dies or becomes incompetent prior to completion of the liquidation, his legal representative or successor-in-interest shall receive the payment such partner would otherwise be entitled to receive.

[*Alternative provisions that should be considered at the same time with this paragraph 8, are suggested as to Article X of Chapter Two, pages 96 to 98.*]

9. **Legal Effect of Provisions.**

(a) All provisions of this instrument shall be construed according to the laws of the State of _____.

(b) Each of the partners understands that, in agreeing to the terms and provisions of this instrument including provisions as to amendments hereto, he shall have bound and obligated himself, his estate, and any and all claiming by, through, or under him.

(c) No partner and no one acting by authority of or for a partner may pledge, hypothecate, or in any manner transfer his interest in the partnership, his interest in any of its assets, receivables, records, documents, files, or clientele, all such rights and interests of each partner being personal to him and non-transferable and non-assignable (excepting only that other partners or the firm may succeed to such rights or some of them in accordance with the terms of this instrument).

[*Alternative provisions that should be considered at the same time with this paragraph 9, are suggested as to Article XI of Chapter Two, pages 99 to 102.*]

10. **Amendments.**

Any amendment hereto, in order to be effective, must be agreed to in writing and signed by each partner whose vote is required for its adoption.

[*Alternative provisions that should be considered at the same time with this paragraph 10, are suggested as to Article XII of Chapter Two, page 102.*]

CHAPTER TWO

ARTICLES OF PARTNERSHIP FOR LAW FIRMS OF MORE THAN FOUR PARTNERS

With an Explanation of Each Provision and Suggestion of Many Possible Alternative Provisions

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ARTICLES OF PARTNERSHIP FOR LAW FIRMS OF MORE THAN FOUR PARTNERS

With an Explanation of Each Provision and Suggestion of Many Possible Alternative Provisions

(See *Caveat on page 5*)

ARTICLES OF PARTNERSHIP FOR THE LAW FIRM OF A, B & C

Article I. General Provisions

Section A. Recitals

1. **The undersigned parties hereby agree this ____ day of _____, 19__, to organize a partnership for the practice of law under the firm name of A, B and C.**
2. **The effective date of this document is the ____ day of _____, 19__.**

The format of the document, including the captions and numbering of the various articles, sections and paragraphs is, of course, a matter of personal preference.

If the document does not constitute the original agreement for the organization of a new firm, some firms prefer to list in the preamble or a first paragraph of recitals all or some of the background data of the firm, such as

(a) When organized and by whom.

(b) A list of the partners with the years of admission and termination of each.

(c) A list of the prior articles of partnership and amendments to each and of other documents containing historical data.

Section B. Parties

A, B, C, D, E, and F constitute the original partners of the firm.

If the firm is divided between two or more cities, the addition of the city and residence of each partner may be worthwhile.

Section C. Purpose

The sole purpose of the firm is to engage in the practice of law, with such usual operations in the purchase, ownership and disposition of properties, the maintenance of records, and other conduct of business as is incidental to the conduct of a law firm.

A large majority of the agreements submitted to us contain a purpose clause or paragraph. A statement of purposes seems unnecessary to us. However, if purposes are stated, it is our opinion that they should be stated in broad terms substantially along the lines of this Section. Of course, if a partnership proposes to engage in activities not directly allied to the practice of law, such as owning an office building, such activities should be authorized in the purpose clause.

Section D. Definition of Terms

For all purposes of this document, each of the following terms shall have the following meanings:

1. **The terms "firm" or "partnership," interchangeable terms in this document, shall include the firm now organized and the same continuing firm, however named, notwithstanding changes in personnel by addition of new partners or termination of the membership of any partners.**
2. **The term "partners" shall (unless expressly qualified) include all partners individually, whose membership has not been terminated.**
3. **The terms "this document" or "these Articles of Partnership" or "these Articles," interchangeable terms herein, shall include the Articles of Partnership as set forth herein, as the same may be amended as provided herein. The term "provisions of this document" includes the terms and provisions hereof and of all such amendments.**
4. **The phrase "termination of all interest in the partnership" means, when applied to any partner, the end of (i) his membership; (ii) his units of participation and all rights under his units of participation; and (iii) his rights in the capital of the firm; but shall not involve an elimination or cancellation of any rights expressly provided in this document to receive payments in cash or property yet to be paid to him as an incident of the termination of interests mentioned in (i), (ii) or (iii) of this paragraph.**
5. **The term "retired partner" means one whose interest in his units of participation is suspended, and hence his participa-**

tion in the voting of partners, and in sharing the net profits and losses; but who is eligible to receive any retirement bonuses or other payments in accordance with the terms of this document; neither his membership nor his rights in the capital of the firm being terminated.

6. **The term "permanent withdrawal" of a partner means the termination by his voluntary act of all his interest in the partnership.**

7. **The term "temporary withdrawal" of a partner means not a termination of all his interest in the partnership, but merely an interruption of the effectiveness of his units of participation during the period of his absence from the firm, so that he shall have for the interim no vote and no share in the profits or losses.**

8. **The term "expulsion" of a partner means action by the firm effecting termination of all his interest in the partnership.**

9. **The term "permanent disability" of a partner means that disability which justifies the requisite vote of the partners in their discretion to terminate on that account all his interest in the partnership.**

10. **The term "net income," as applied to the income of the firm, means the gross "income" as that term is defined for federal income tax purposes, less such deductions from the "gross" as are permitted for federal income tax purposes.**

Section E. Firm Name

1. **The name of the Firm "A, B & C" shall continue until changed in accordance with the provisions of this document.**

In Canon 33 of the Canons of Ethics of the American Bar Association it is recited:

> "In the formation of partnerships and the use of partnership names, care should be taken not to violate any law, custom, or rule of court locally applicable. Where partnerships are formed between lawyers who are not all admitted to practice in the courts of the state, care should be taken to avoid any misleading name or representation which would create a false impression as to the professional position or privileges of the member not locally admitted. In the formation of partnerships for the practice of law, no person should be admitted or held out as a practitioner or member

> who is not a member of the legal profession duly authorized to practice, and amenable to professional discipline. In the selection and use of a firm name, no false, misleading, assumed or trade name should be used. The continued use of the name of a deceased or former partner when permissible by local custom is not unethical, but care should be taken that no imposition or deception is practised through this use. When a member of the firm, on becoming a judge, is precluded from practising law, his name should not be continued in the firm name."

There should, of course, be compliance with these quoted provisions. We do not know, and the canon does not attempt to say, in what states or in what cities the continued use of the name of a deceased or former partner is "permissible by local custom." We know of only one attempted survey to determine this. Mr. Roger B. Siddall in 1954 sent out a questionnaire to two-hundred of the country's larger firms in forty-seven of the larger cities. He found in Martindale-Hubbell that one-hundred eight of those firms continued to use the name of a deceased partner in the firm name. Only forty-two of these firms answered his questionnaire. From his check of Martindale-Hubbell and from the answers received, he concluded:

> "While in all but two or three of the forty-seven cities covered by my survey there was precedent for retaining the names of deceased members, this practice was considerably more prevalent on the eastern seaboard than in the rest of the country. Most of the firm names that were composed of all active partners came from the Mississippi-Missouri Valley."

Each firm, in deciding its policy on this matter, should conclude whether, in the light of the practices in its own city and state, its use of the name of a deceased or former partner beyond a reasonable time for liquidation of his interest is permissible by local custom. If in doubt, the firm should consider the views of the Committee on Ethics of the State Bar of every state in which it is to practice.

Article XII of our suggested Articles provides for amendments involving change of firm name. In Article IV, it is provided that such an amendment may be on a two-thirds vote. Many partnership agreements require unanimous vote of the partners for a change in firm name. If unanimity is not required as to most other amendments, however, we believe it need not be required here. It seems to us that the power of the other partners to expel from

the firm any one partner unwilling to concur in the view of other partners on this matter affords sufficient leverage to prevent anyone taking an unreasonable view as to the name of the firm.

2. **A partner of the firm permanently withdrawing from it, bearing the same surname which is a part of the firm name, shall be entitled thereafter to continue the practice of law in his own name or as a member of a firm containing his surname in its firm name regardless of any continuation of his surname in the name of this firm thereafter; the firm may drop such surname as a part of its firm name at that time or any later time that it elects, and will do so from the time that all interest of the withdrawing partner in the affairs of this firm have been liquidated, unless it thereafter retains a continuing partner of the same surname.**

In one form or another such a provision as this appears to be usual in those parts of the country where firm names are as a matter of local custom expected to be limited to the surnames of active partners in the firm. In other parts of the country, where continuing firm names may properly include the names of partners long deceased, such a provision as this is apparently common among new or smaller firms but not among larger, older firms. In small firms where overlapping surnames do not exist and are not contemplated, a much simpler provision is common; for example, that each withdrawing partner may withdraw his name from the continuing firm.

3. **In the event of the expulsion of a partner whose surname is a part of the firm name, the firm shall drop the surname from the firm name unless after the expulsion the firm retains a continuing partner with the same surname and elects not to drop the surname.**

We find no such provision in any of the existing agreements we have examined, but such a provision may be desirable.

4. **In the event of the termination of the partnership interest of any partner because of his death or permanent disability, or in the event of the retirement of a partner, or in the event of his temporary withdrawal, leave of absence or temporary incapacity, when his surname is a part of the firm name, the firm may continue to use his surname without compensation to him or his estate or to any beneficiary thereof so long as any of their interests in the affairs of the partnership are not completely liquidated.**

In areas where the local custom does not prevent the continued use of a former partner's name, so long as the firm elects and if consistent with the partnership agreement executed by the former partner, a further clause at the end of the bold face type, or its equivalent, is often added:

> "**. . . and for such further period of time as is provided for in any agreement between the firm and said partner or former partner or his estate or all beneficiaries thereof.**"

In areas where it is recognized that continuing use of a former partner's surname is not proper under local custom, the bold face provision is appropriate without that added clause.

In those areas where continued use of a surname as a part of the firm name is by local custom entirely proper, there are many agreements in which it is provided for continuation of the firm name without compensation therefor so long as the continuing firm elects to use it. If this is the wish of all partners when executing their articles or any amendment to the articles, it is a simpler and better provision than the one we are suggesting.

A provision for continuing the use of the surname in the firm name indefinitely without compensation is apparently much more common among the older, larger firms. Smaller and younger firms, and some firms in California especially, have provided for the continuation, at the election of the continuing firm, of the use of the surname after the interest of the deceased or former partner in all affairs of the partnership has been liquidated, but only if the firm continues to pay an annual, semi-annual, or monthly license fee to the former partner or his estate or the beneficiaries of his estate for the privilege of using his name. Some of these agreements provide for an interruption of such payments during any period in which the firm includes among its partners one who bears the same surname. If such a license fee is to be provided for. it appears to us preferable that the amount be specified in that Article of Partnership in which provision is made for the license.

We have noted in a few of the Articles of Partnership submitted to us that, in the event of the dissolution of the firm while it continues to use as a part of its firm name the surname of a deceased or former partner, and in the event that some of the partners of the dissolved firm organize a new firm in which to continue the practice of law, the partners of that new firm may continue to use the same firm name as the firm being dissolved. This is on condition that the new firm has among its partners individuals who at the time of dissolution hold a stipulated percentage of in-

terest in the assets of the firm being dissolved, such percentage varying from a 66⅔ percentage of interest to a 75 percentage of interest.

Section F. Term

The partnership shall continue from the effective date of this document until dissolved in accordance with the terms hereof.

Where permitted by state law, as we believe it to be in most states, we urge careful consideration of the advantages of this provision for all law firms.

Many small firms are frankly experimental in character. Their partnership agreements often contain provisions for automatic renewal of the partnership each year, in the absence of notice to the contrary from any partner. So long as the partners feel that the firm is tentative or experimental such a provision seems appropriate. A provision for such a firm's dissolution upon any change in membership, if any remaining partner so desires, likewise seems appropriate.

This bold-face provision is usual in the articles of partnership of larger firms. Without it, and without provisions by which the interests of deceased, retired, withdrawing, and expelled partners are to be acquired, and provisions for the admission of new partners, and provisions that the firm continues through such transactions, the firm will die as a matter of law; and thereupon the parties at interest must determine what to do. A period of uncertainty at that time is invited, and possibilities of disagreement are greatly increased, by the absence of such provisions.

Whether and at what date a partnership is terminated or a taxable year of the partnership is terminated as to a deceased or withdrawing partner or as to the continuing partners, by death or withdrawal of a partner, may be vitally important from the standpoint of taxes. A partnership agreement as to the continuance or termination of a partnership is important insofar as it relates to the obligations of the parties between themselves; but for tax purposes the termination of a partnership or the closing of the taxable year of a partnership as to any partner is determined by the provisions of the Internal Revenue Code as applied to the actual situation. It is not governed by state or local law concepts.

Under the Internal Revenue Code, a partnership is considered as terminated only if no part of the business continues to be carried on by any of the partners in a partnership, or within a twelve-month period there is a sale or exchange of 50% or more of the

total interest in partnership capital and profits. However, the death or withdrawal of one of the partners, even in the case of a partnership composed of only two partners, does not terminate the partnership nor close the partnership year as to either the deceased or withdrawing partner or the others, until the entire interest of the deceased or withdrawing partner is liquidated or sold. So long as the partnership is in existence, it will continue to report the income of the group as increased or decreased on the basis of the same taxable year on which it has been reporting, and the income will continue to be reportable by any old or new partner in the taxable year of such partner in which ends the taxable year of the partnership.

The early termination of the partnership year may cause the unfortunate bunching of more than twelve months' income in one taxable year where the partner and the partnership are on different taxable years.[4] Also, the retention of an established fiscal year for reporting partnership income may be of great advantage to the remaining partners for the future. It is clear that a law partnership constructively terminated by sale of a deceased or disabled or withdrawing partner's interest to one or more of the remaining partners would find it exceedingly difficult to get the Commissioner's consent, as it would have to do, to continue to use a taxable year other than the taxable year of the principal partners, which for most individuals would be a calendar year.[5] On the other hand, there may be situations where the early termination of a partnership taxable year may be advantageous to some partners.

The tax considerations involved in the termination of partnership taxable years are discussed more fully when we consider the tax problems of a deceased, disabled or withdrawing partner (Pages 62 – 69).

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[4] Take the situation of a partnership on a January 31st fiscal year and Partner A on a calendar year. Suppose at the death of A on December 31st the partnership year were terminated as to A. There would be included in A's income, for the period preceding death, the income of the twelve-month period ending January 31st and also all the income of the eleven-month period of February 1st to December 31st. The same would be true as to all the partners if the partnership itself terminated on December 31st.

[5] Legislation has been proposed which would provide that a partnership should not constructively terminate upon the sale of a partnership interest to another partner, provided he has been a partner for at least a year at the time of sale. Proposed IRC § 708(b), H.R. 9662, 86th Cong., 2nd Sess. (1960).

Section G. Location of its Offices

Offices of the firm shall be maintained for the continuing practice of law by it, its partners, and its associates, throughout the term of its existence as a firm, in the city of _____ and state of _____ (here add such other locations, if any).

Most agreements do not contain a provision as specific as the foregoing, although one of the first provisions in many agreements indicates the city and state in which the principal office of the firm is to be located. In our view this particular provision is unnecessary except in the rare case in which one or more partners consider the possibility of a move of the offices of the firm from the city of his residence important enough to stipulate against it in the Articles.

In any case, a provision of this kind should relate only to the city in which the offices of the firm are to be located. Normally, the exact location within the city should not be specified in the agreement.

Article II. Capital of the Firm

Section A. Original Capital Contributed by Original Partners

The original capital contributions of the respective partners hereunder are shown on Exhibit A attached hereto. It reflects cash contributed and property, the title of which is transferred to the firm at the current agreed market value of each item. The firm agrees to repay to each partner, at the time and as hereinafter provided, the aggregate amount he has thus contributed as original capital plus interest thereon at the rate of five per cent per annum on all unpaid balances.

Prospective partners proposing to organize a new firm should consider various types of provisions for handling the capital needed at the outset and from time to time in connection with acquiring offices (unless rented, as they usually are) or necessary leasehold improvements for the offices, a library, furniture, fixtures, and equipment, and for replacing capital items.

The agreements which have been reviewed show a wide variety of approaches to the capital requirements of law firms. Examples of these are as follows:

(i) A firm, as such, may have no capital needs. At its organization, one man, say the new senior partner (as on dissolution of his former firm), may own all that is needed. He continues to own this "capital" and personally takes the

depreciation thereon. In some instances he permits the firm to use this capital without rent and he pays for the additions, repairs, replacements in consideration of his agreed share of the profits, presumably larger than it otherwise would be. In some instances he receives agreed rent. This may be a percentage of the appraised value of the assets rented, a percentage of his net cost after depreciation, or a percentage of his original cost. The firm in some instances pays as rent, and in consideration of other items of the agreement, the costs of additions, repairs, and replacements, title to all such items of property being placed in the owner-partner as acquired. In one agreement the firm pays the premium on a life insurance policy on his life with the understanding that on his death the capital items will be purchased by the firm with the proceeds of the policy.

(ii) In other firms the capital items are owned and leased to the firm by two or more partners, or by a corporation formed by them (perhaps others joining with them) for those purposes.

(iii) In many small firms, say less than five partners, there are no capital items of the firm and no provisions in the articles of agreement with reference to capital items. Presumably the individuals simply share in owning what is acquired as needs arise from time to time and unanimously agree informally among themselves on each purchase. A formal provision in the partnership agreement to share these costs in an agreed way and to rent all these properties to the firm or permit it to use them without cost, may be quite short and may be independent of the Articles of Partnership.

(iv) By far the most usual provision for firms of all sizes is that partners who contribute capital are credited in the capital account with the amount contributed, contributions in the form of properties being credited at the then agreed value of the properties. It is not necessary that there be any relationship between the respective shares of the partners in net income and their shares in these capital accounts, but most agreements provide for equality in the two percentages for each partner. In such cases, when a new partner is admitted into the firm or the share of an existing partner is increased, the share of all other partners automaticaly is ratably reduced. In effect, the new partner or the partner gaining an increased percentage in

the capital assets is purchasing from other partners his new interest in such assets. Usually this purchase is permitted to be made in easy installments out of shares of income distributed to the purchaser. In situations where equality of percentages is not anticipated, there is frequently added a stipulation that the firm will pay from month to month or annually, as a current expense item, an agreed rate of interest on the sum thus contributed and on any further contributions made from time to time. Depreciation on its capital assets is, of course, a deduction in computing the net income of the firm. Frequently it is provided that each year an amount equivalent to the depreciation deduction shall be paid ratably in reimbursement of contributions of capital.

(v) A variation from all this has been adopted by a few firms. A percentage of the net income of the firm each year is withheld from distribution, though taxed ratably as income to those who would have received it if not withheld. Five per cent or thereabouts is a figure used in existing agreements. The amount withheld each year from each partner is credited to his capital account as a new investment made by him. The cost of additional items needed and of replacements of capital items is estimated for each new fiscal year and set aside as a reserve, and the remainder is used to refund ratably the oldest items on the capital accounts. This keeps the active partners regularly buying, through use of this revolving fund formula, from the partners of two years before or so. Each of the partners of the current year is thus getting back his old investments with interest and each new investment is on the same basis as the partners' share of profits for the current year. In firms where percentages change frequently, where bonuses are paid to partners for extra performance, or where the annual distributions are on an allocation basis rather than a percentage basis, this is a valuable variation.

Although there are numerous other alternatives in current use, we think the five general types we have referred to suffice for this discussion. Having in mind the reserve for bonuses presented in Article III, Section C of these Articles, and that further contributions may well be based on current distributions of net income rather than on the ratio of prior contributions, or on voting units of participation, we are suggesting in Sections B, C and D of this

Article a form of the revolving fund idea, for consideration along with other alternatives for raising additional funds as needed for new capital and to make reimbursement for prior contributions.

Section B. Annual Additional Contributions to Capital

Five per cent of the net income of the firm for each fiscal year shall be withheld from distribution and credited, as additional contributions to capital, to partners, in the amount that each would have received had that sum been distributed. Interest shall be paid by the firm on all unreimbursed balances of all these additional contributions to capital at the rate of five per cent per annum until fully repaid.

Section C. Reserve for Capital Expenditures; Other Reserves

1. **Out of the sums contributed as additional contributions to capital for each fiscal year, there shall be set aside as of the beginning of the new fiscal year that amount, in addition to any unexpended balance in that reserve fund left over from the last year, estimated to be needed for capital expenditures of the firm during the new fiscal year. As such expenditures are incurred during that year they shall be paid for out of that reserve fund.**
2. **Out of the remainder of the sums contributed as additional contributions to capital for each fiscal year, there shall be set aside that amount for any other reserve fund, or to add to any existing reserve fund, estimated to be needed to meet any other anticipated obligations or commitments of the firm. As such expenditures are incurred they may be paid out of the appropriate reserve fund.**

Section D. Annual Reimbursements on Contributions to Capital

1. **At the end of each fiscal year there shall be charged to firm expense for that year the amount of depreciation accrued for the year, which the firm for federal income tax purposes is entitled to deduct from firm income, and the amount of interest accrued for the year on the unreimbursed balances of contributions to capital.**
2. **At the end of each fiscal year, (i) the amount of such interest shall be paid to the partners entitled thereto; and (ii) cash sums aggregating the amount of such depreciation shall be paid ratably in reimbursement of contributions to capital.**
3. **Any amounts remaining out of the annual contributions to capital provided for in Section B of this Article, after the de-**

duction of the reserves as provided in Section C of this Article, shall be paid to partners to reimburse them for their contributions to capital. Such reimbursements shall be made for the oldest contributions first, all repayments for contributions as of the same time being made ratably as to them.

All capital contributions to the firm are investments by the partner; and any reimbursements of these contributions, whether from depreciation deductions or from annual contributions of capital, are accordingly received by the partner as "take home" money not taxable as income. Of course, the five per cent interest paid to him annually on the sums invested and not reimbursed is taxable income. Though denominated "interest", it is not true interest, for the capital is not an indebtedness of the firm. This "interest" is merely an obligation of the firm to pay out of net income, before other distributions.

Article III. Profits and Losses of the Firm; Participation of Partners Therein; Drawings; Bonuses

Section A. Units of Participation in Profits and Losses Held by the Respective Partners

1. Except as otherwise expressly provided in this Article, participation of partners in net profits and losses shall be on the basis of the units of participation held by each partner, which shall be as follows:

A: 30 units
B: 20 units
C: 20 units
D: 12 units
E: 8 units
F: 5 units

Upon termination of all interest in the partnership as to any partner, his units of participation and all rights thereunder shall expire. No amendment of this document shall be required therefor. Otherwise no change in the aggregate number of units held by partners or in the number held by any partner shall be effected except by an appropriate amendment of this document.

Participating units, rather than percentages, are suggested as these are simpler and more readily facilitate changes. In the event of the loss of a partner and the termination of his interest, no change in the units held by the remaining partners is involved.

If each partner has a participation in terms of a percentage of the whole, it is difficult to avoid fractions as a new partner is added or the participation of some existing partner is increased. The final results ought to be the same mathematically, but psychologically there may be a reluctance of a partner to reduce his own percentage though he would welcome a new partner. Especially where it is the plan to shift the participations of existing partners rather freely from time to time rather than to tend to keep them at the same percentage levels, the system of participating units is recommended.

We have stated a hypothetical number of units in the suggested paragraph to emphasize that the number of units need not total one hundred at the commencement of the partnership or at any other time and also to indicate visually that when the three older partners, A, B and C, have agreed on the relative bases for their own participation, it is not necessary that they relate their shares to any agreed percentage of the net profits in order to do justice to the younger partners. The decision in terms of percentages becomes increasingly difficult as changes in the number of younger partners occur, and especially if younger partners do not progress at the same rate.

Though several firms are using this unit method, most partnership agreements we have examined use a percentage system. Indeed, most of them provide for the same percentages for each partner in the capital of the firm and in its net profits.

A substantially different method of computing participation in net profits is known as the allocation system. This method and the considerations on which it is based are detailed in an article in *The American Bar Journal* in 1940 by Reginald Heber Smith, referred to on page 14 above. We recommend that one preparing articles of partnership consider that article carefully. He may find it desirable to use an allocation system or some combination of an allocation system and a percentage or participating unit system.

A typical example for a partnership distributing its net profits under an allocation system may be stated simply, though variations are many. The purpose of the system is to develop a formula by which individual fees as they are paid are allocated to those partners who earn that fee for the firm. A share of the fee is usually allocated to the "originating partner" whose client is paying the fee. That share, usually from thirty to forty per cent,

is not for origination alone; it also is to compensate for responsibility for the effectiveness of the services rendered the client in all matters in the office. Generally that partner will keep sufficiently in touch with the client and the services rendered to assure that the firm discharges its responsibilities properly and satisfactorily to the client. If the origination and the responsibility are separated, this share of the individual fee may be divided. The remainder of the fee is allocated to those partners, or the single partner, rendering the services for which the fee is paid. The services for that particular fee may have been wholly by the originator or in part by him and in part by some other partner or some associate; and the "performance" portion of the allocation would be distributed accordingly. The "originating" portion of fees on matters originating with associates may be allocated to them separately or as a group and allocations for performance by associates may be so allocated. When allocations for fees for the whole year are totaled, under this system, the net profits may be divided at the end of the year among the partners completely in proportion to the aggregate of their allocated fees (or subject to revisions for bonuses decided upon not computed wholly on the allocation totals). Advocates of this system urge that a realistic formula for an allocation system assures fair participation between partners, actually paying each in accordance with what they have done for the firm during the year. Others feel that such an effort to make adjustments of income between partners annually on the basis of performance in the particular year generates more problems than it solves.

Of course, combinations of an allocation system and a percentage or participating unit system (each with or without bonuses) are possible in many different forms. In one form the allocation records are kept as if the distributions were to be wholly on that basis, and yet only the fees above an agreed aggregate for the firm will be thus divided between the partners, the division up to the agreed ceiling being in accordance with the percentages or participating units agreed upon. Or some agreed share, say twenty five per cent or fifty per cent of the total fees that the firm collects, may be divided under an allocation system (with or without bonuses calculated on some other basis) and the remainder under a percentage or participating unit system.

Many other combinations of systems are in use. For one example, it may be agreed that a specified amount shall be paid first to each partner out of net income (as in drawing accounts) and that the remaining net income be divided in one or another of the ways mentioned.

Many firms pay commissions to associates on firm employments originating with associates. Some firms credit like commissions to all partners. The crediting of commissions to younger partners rather than all partners is more frequent. The calculation of commissions for origination of business is one method of using in part an allocation system. More frequently where there is any allocation, it involves credits not only for origination but for actual services rendered.

Section B. Drawing Accounts and the Extent to Which Any are Guaranteed

1. **The firm shall carry on its books a drawing account for each partner. As of the end of each calendar month he shall be paid the sum indicated below, which shall thereupon be charged to his drawing account.**

   A: $2,400.00 per month
   B: 1,600.00 per month
   C: 1,600.00 per month
   D: 1,000.00 per month
   E: 800.00 per month
   F: 800.00 per month

2. **As of close of each fiscal year there shall be credited to the drawing account of each partner his share of the net profits computed as provided in this Article III, less the amount of his annual contribution to capital of the firm; any reimbursements to him of contributions shall be so credited and all other debits and credits between the partner and the firm to date shall be included in the calculation. Any excess of credits over debits shall thereupon be paid to the partner.**

It is quite usual that the amounts permitted to be drawn by each partner from month to month shall be in proportion to his participation in the net income for the year. But this is not necessary, and in order to illustrate this we have filled in hypothetical figures in our suggested paragraph so that the younger men will be receiving drawing accounts disproportionately high. Of course there are well-known reasons for assuring them a specific monthly income regularly. There may be reasons for other variations from a pattern of drawing accounts in proportion to the participation in profits. One cannot expect the drawings of a firm to be proportioned to the anticipated distributions to be made at the end of the year on any other than an estimated basis, if the firm employs an allocation or bonus system.

3. **If at the end of the fiscal year, after crediting to the drawing accounts of partners E and F the participation of each such partner in the net profits, there remains a deficit in his drawing account, he shall not be required to pay the amount of that deficit to the firm, but as an expense of the firm (to be shared ratably by the remaining partners who do not have the benefit of this guaranty) his account shall be credited in the amount of such deficit. Thus E and F each is guaranteed that he shall receive as a minimum his drawing account for each month of the year. Moreover, if the net profits of the year aggregate as much as the total of the drawing accounts of all partners plus any amounts credited in balancing the drawing accounts of E and F, all of the other partners shall retain the amounts of their respective drawing accounts. But, if the net profits aggregate less than the total paid in the drawing accounts plus the said amounts credited to the accounts of E and F, then A, B, C and D shall share ratably all such deficits for the year in the proportion of their respective drawing accounts, except however that D shall not be required to pay back to the firm any more than the amount that he has received in excess of the stated amounts of the drawing accounts of E and F.**

Our six-partner firm is hypothetical and hence for purposes of illustration we have suggested provisions by which the junior partners may be given a guaranteed drawing account and partners not-so-junior a variation therefrom.

There are many different methods in the agreements we have examined by which, in one form or another, senior partners take the risks of loss, guaranteeing wholly or partially the drawing accounts of junior partners, yet giving the juniors an opportunity if the year is successful to share in the net profits over drawing accounts. The provision suggested is one method, not uncommon, for achieving these results.

4. **If at the end of the fiscal year there are net profits for distribution over and above the aggregate of all the stipulated monthly drawings and payments made as the agreed annual additional contributions to capital, then the portion of such net profits not transferred to the reserve for bonuses, as provided for in the next section hereof, shall be applied first to payments to those partners who have received in their monthly drawings less than their ratable share of net profits; and thereafter the balance of net profits shall be distributed rata-**

bly to all partners in proportion to their respective units of participation.

The provision for a reserve for bonuses, amounting to a substantial share of net profits, as suggested in the next section, is of course purely optional. Should that Section not be adopted the clause referring to it, in this paragraph 4 of Section B must be deleted; however, in lieu thereof there may be inserted a provision for whatever bonuses, if any, may be determined upon as a management decision and paid to partners.

Section C. Reserve for Bonuses and Payments Therefrom

The net profits of the firm remaining for each fiscal year after paying (or setting aside funds for paying) all expenses of the year and after paying fully the stipulated monthly drawings and making the annual agreed additional contributions to capital, shall be distributed as follows: seventy five per cent of such remaining net profits shall be distributed as heretofore provided (Sections A and B of this Article) and the remaining twenty five per cent shall be placed in a "bonus reserve". The management committee shall as promptly as convenient recommend to all partners the uses to which this fund of twenty five per cent shall be placed, and thereupon at a meeting of the firm it shall be determined to whom and in what amounts such reserved funds shall be paid. It is anticipated that normally, unless some anticipated need for the reserve fund seems to require other use of such funds in the new fiscal year immediately ahead, said reserve fund will be used for extra distributions to partners as achievement bonuses.

This bold-face provision involves a limited use of an allocation system or of a substitution therefor, relating to twenty-five per cent of the profits only and with any allocations being applied only to the extent the management committee and the partners shall consider proper.

If the bold-face provision is adopted, compilation of detailed allocation figures for each fee as received during the year may be used as a factor considered by the management committee in its efforts to evaluate realistically for the year the originations and the services of each attorney in the office. But other means of such evaluation are available if preferred. If the excess over all stipulated monthly drawings is not expected to be substantial, the compilation of detailed allocation figures may be unwarranted.

If the bold-face provision of this Section C or something like it is adopted, achievement bonuses will be available for distribution to any of the partners (as otherwise they would be for associates and employees in the office), based not wholly or primarily on the arithmetical calculations of an allocation of fees, but on the basis of such calculations and all other factors pertinent to the proper evaluation of the benefits that the firm has received from their respective efforts during the year. Of course, bonuses paid to associates and employees are expense items, deducted before computation of net profits of the firm; accordingly, this reserve out of net profits is for distributions to partners only.

In the instruments examined, we have found a number of variations comparable to the suggested provision. Many provide that such a reserve fund is to consist of the net profits of the year in excess of a stipulated figure or a percentage of the net profits above a stipulated figure.

Numerous existing agreements provide in effect that all the net income above drawing accounts shall be a reserve fund to be distributed wholly at the discretion of a management committee. The conclusive determination by the partners comprising such a committee involves a distribution without a fixed formula and usually functions to meet the purposes of paying the attorneys in the office according to their merits, depending on differences in performances of each from year to year.

Article IV. Meetings and Voting of Partners

Section A. Meetings of Partners; Voting at Such Meetings

1. **A meeting of partners shall be held at any time on call of the management committee or at any time after written notice at least 10 days in advance jointly signed by any three partners, specifying the hour and purposes of the meeting. The call by the management committee may be written or oral and need not be made any period of time in advance of the meeting, nor need it specify the purposes of the meeting; except, however, that in those instances where written notice for at least a specified period of time is required by any provision of these Articles, every call or notice of such meeting shall comply with such requirement.**

2. **At each meeting of partners every partner shall have one vote for each unit of participation held by him, as specified in Section A of Article III of this document; a quorum for**

any issue at any meeting shall exist if partners holding a majority of such units are present in person or voting by proxy or written instruction. Any partner may vote on any matter (subject to provisions of paragraph 3, this Section) if not present, by general or specific proxy to a partner present or by specific instructions in writing.

3. A partner shall not vote, however, and the number of outstanding units shall be deemed to be reduced by the number he holds (for the purposes of determining on any such issue whether quorum exists or whether the requisite percentage of outstanding units have been voted in the affirmative), when he is the partner affected by any of the following issues:
   (a) If the partner has given a notice of withdrawal from the firm and the partnership meeting is voting on a proposal to terminate the firm and liquidate its affairs (see Article V, Section D) the person whose notice of withdrawal is pending shall not vote and the percentage of votes for termination and liquidation shall be determined as though that partner's units of participation did not exist.
   (b) If the issue before the partnership is whether a partner (i) is under permanent disability, or (ii) should be expelled from the firm, whether for cause or without determining that a cause exists, or (iii) should be permitted to retire or to attain retirement by gradual steps, or (iv) should be granted a temporary withdrawal from the firm (see Article V, Sections C, E, F and G), then as to each such issue the partner involved shall not vote and the percentage of votes shall be determined as though his units of participation did not exist.

4. Excepting only as provided in paragraph 3 of this Section A of Article IV or in Section D of Article XI of this document, no partner shall be disqualified from voting on any issue, notwithstanding any interest he may have therein which differs from the interest of the firm or the other partners.

Section B. Percentage of Votes Required for Certain Partnership Decisions; Requirement of Recommendation of the Management Committee in Advance of Certain Partnership Decisions

1. As provided by Article V of this document, it may be determined by partnership vote that one presently a partner (i) is under permanent disability, (ii) should be expelled from the firm, (iii) should be permitted to retire or to attain re-

tirement by gradual steps, or (iv) should be granted temporary withdrawal from the firm; or that one not a partner presently be added as a partner (see Article V, Sections B, C, E, F and G). As to each such issue (subject in each instance to the provisions of paragraph 3 of Section A of this Article), it is required that for so determining that issue in the affirmative, affirmative votes shall be cast by partners holding at least two-thirds of the outstanding units of participation that can be voted on that issue. An affirmative recommendation of the management committee in advance is required for a vote of the partners on the addition of a new partner (see Article V, Section B) or for a vote on payments out of the bonus reserve (see Article III, Section C).

2. **As provided by Article X of this document, decision may be made that the firm be terminated and its affairs liquidated at any meeting held for the specific purpose of determining whether this shall be done, on the written call of the management committee or of any three partners stating the purpose of the meeting and giving at least three days' notice. For determining this issue in the affirmative (subject to the provisions of paragraph 3(a) of Section A of this Article) votes in the affirmative of partners holding at least two-thirds of the outstanding units of participation that can be voted on that issue, shall be required.**

3. **As provided in Article XII of this document, these Articles of Partnership may be amended upon affirmative votes of partners holding at least two-thirds of the outstanding units of participation that can be voted on that issue, provided that the proposed amendment and the recommendation of the management committee with reference thereto are attached to the written notice of the meeting at which the proposed amendment is to be considered.**

4. **A majority of the votes cast, a quorum being present, may determine any other issue at a partnership meeting, provided no such determination shall be contrary to a provision of law or of this document.**

The partnership agreements we have examined vary widely in provisions on matters dealt with in this Article. Very few indeed are as detailed or specific as the bold-face provisions suggested. Rules as to meetings of partners need not be detailed in the Articles of Partnership. It is entirely proper for Articles of Partnership to provide how rules on these matters may be adopted and revised, just as Articles of Incorporation may provide that such details be set forth in by-laws of a corporation.

On the other hand, disagreements have occurred many times in law firms as to voting of partners, because of alleged disqualifications for interest. Hence careful consideration should be given to placing in the Articles the desired provisions as to the weight that shall be given to the vote of each partner (according to his units of participation in current net income, as in our suggested text, or otherwise), the percentage of votes to be required for specified partnership decisions in those instances in which more than a majority is to be required and the disqualifying effect, if any, of the personal interest of certain partners in certain partnership decisions.

We have suggested in the text (Article XII and this Article) that the management committee submit to all partners the language of any proposed amendment to the Articles and its recommendation as to whether that amendment should or should not be adopted without limiting the right of the partnership meeting to decide finally whether the amendment shall be adopted, with or without changes considered at the partnership meeting. In Article V, Section B, it is provided that there shall be no vote on the addition of a partner except upon a recommendation of the management committee. Careful consideration should be given to any such limitation on the rights of a partnership meeting to decide such a matter for itself without the possible delays of a recommendation of a committee. Though we have not suggested that recommendations of the management committee be a prerequisite to voting on other changes as to partners (Article V, Sections D, E, F, and G) a few of the partnership agreements which were examined so provide.

Article V. Changes as to Partners

Section A. No Classes of Partners

Though their contractual rights differ, as provided in this instrument, all partners are of the same class and have identical and equal rights except as herein otherwise provided.

We deem this provision unnecessary if all partners are to be of the same class. It has been included, however, because we want to call attention to the frequency with which classes of partners are provided for in the existing agreements submitted to us. Patterns for classification include:

(i) Senior partners, junior partners, and partners in neither of those classes;

(ii) Percentage partners or non-percentage partners, the latter receiving only agreed drawing accounts and bonuses;

(iii) General partners and special partners, with limitations applicable to the latter;

(iv) Managing partners and others;

(v) Active partners, consultive partners, semi-retired partners, and retired partners;

(vi) "A" partners and "B" partners or some other non-descriptive classification (for example, "A" partners may each have three votes on all partnership matters and "B" partners one vote).

Depending on purposes of classification, the tendency to classify increases with the size of the firm and seems infrequent in firms of ten partners or less.

Section B. Addition of Partners

The management committee may from time to time propose that additional partners be invited to join the partnership, and may propose the units of participation and the drawing accounts for each, together with the proposed amendment to the Articles of Partnership, specifically providing for any drawing account, guaranties and other provisions. In each such instance:

1. **There shall be given to each partner a notice of at least ten days of a meeting for all partners at which each partner shall be entitled to discuss the proposal fully; each partner shall be entitled to a postponement of that meeting up to a date not less than thirty days after the giving of the ten-day notice.**
2. **At that meeting the partners may by their affirmative votes (as provided in paragraph 1 of Section B of Article IV) determine that the invitation shall be extended as proposed by the management committee or with such revisions as are determined upon.**
3. **If the invitation is accepted, the new partner and prior partners holding at least two-thirds of the participating units entitled to vote at the meeting referred to in paragraphs 1 and 2 of this Section B, shall join in executing an amendment to these Articles of Partnership providing for the change in the partnership thus effected.**

Many firms—we assume that they are large firms—place decisions as to adding partners completely in a management committee or in a class of a few partners, thus giving three or some

other small number of partners complete discretion on the matter. For a firm of moderate size, we suggest that every partner have a voice at a meeting. But we do not suggest that unanimity be required as provided in many existing agreements. If one or two partners strenuously oppose, the proposed new partner may still be added under our suggested paragraph. But that is not likely to happen, unless the majority-in-interest very strongly insist, knowingly risking withdrawal of the dissenter from the firm. The power of such an insistent majority to have its way seems right to us if the dissenters are assured of fair terms for withdrawal, as we provide in our suggested form. Very few firms, according to the documents examined by us, give a single younger partner an out-right veto in the matter of new partners.

Many firms provide for the purchase by the incoming partner of some percentage of interest in the capital of the firm, payments being made ratably to partners whose percentages are reduced thereby. The provision for the capital of our hypothetical firm to be contributed ratably from year to year out of net profits as distributed, automatically gives the new partner an interest, acquired from his annual contributions to capital, which begins from the time his distributions exceed his guaranteed drawings.

Section C. Death or Permanent Disability of a Partner

1. Death.

The death of a partner shall terminate all his interest in the partnership, its property and assets. The continuing firm shall pay in cash to his estate (or to his nominee or nominees in accordance with the provisions of any separate agreement entered into between him and the management committee acting for the firm) the following amounts to be paid in installments at the times indicated:

(a) On or before thirty days after the date of his death, the net amount of his capital in the firm as of the date of death plus interest on his capital to that date.

(b) Within ninety days from the date of death, an amount computed as follows:

(i) Start with his pro rata share of seventy five percent of the net profits (after reducing said profits by interest on the capital accounts of all partners to date of death) of the firm for that portion of its then current year ending with the date of death;

(ii) Add thereto any part of the remaining twenty five percent of the firm's net profits which the manage-

ment committee in its discretion determines to be his fair share of such net profits as a bonus payment to him, based on the same considerations for that part of the year as are provided for any full year in Section C of Article III hereof;

(iii) Deduct from the total arrived at in (ii) above, all distributions the deceased partner had received from the firm on account of net earnings during the year; and

(iv) Adjust the remaining balance by debiting and crediting all sums owing to the firm by him or by the firm to him immediately prior to his death. If the result is a minus balance, it shall be deducted from the aggregate amount payable in monthly installments as provided in subparagraph (c) of Section C, paragraph 1.

(c) In a series of forty-two consecutive monthly installments, beginning on or before one hundred twenty days after the date of his death, a further amount which (except as otherwise herein provided) shall be the average of the sums paid to him as a partner of the firm during each of the last three complete fiscal years of the firm during which he was a partner.

(i) The computation of the sums so paid to him each year shall include all distributions to him out of net income of the firm, but without any deductions for contributions to its capital or any additions for reimbursements therefor or interest on unreimbursed contributions. If he became a retired partner or temporarily withdrawn partner, the years of retirement or of temporary withdrawal are not to be included in the computation. If he had not been a member of the firm for as long as three complete fiscal years, then there shall be paid the average of sums paid to him for two such years, and if not a member for as long as two such years, then the sums so paid to him for one year. If he had not been a member one full year, no sums shall be paid under this subparagraph (c).

(ii) The first six installments of the amount thus to be paid by the continuing firm shall each be as much as decedent's current agreed monthly drawing at the time of his death and may, at the option of the firm, be as much more as the firm shall elect. The re-

mainder of the sum payable by the continuing firm, if any (after the payment of the first six installments) shall be paid in thirty-six monthly installments, approximately equal, beginning three hundred days after death, with interest added to each of these installments at the rate of five percent per annum from date of death until paid.

A majority of the partnership agreements submitted to us contain no provisions for payments in the event of death. They leave the firm, then dissolved as a matter of law, to reorganize around the surviving partners. Depending on the state law, the survivors may have control over the liquidation of the interest of the deceased partner in the firm's assets.

Some of the existing agreements provide that the estate of the deceased partner shall receive very little. In some, a return of his unreimbursed capital is the limit of payment to his estate. Others add to this a pro rata share of all fees collected and not distributed up to the date of death; and yet others add a further pro rata share of fees later collected for work done prior to death though not billed. We assume that in the abence of an agreement that less shall be paid, this much would be owing to the estate, under the law of most states. The trend, it seems to us, is towards providing for the payment of a larger sum than what the law would provide in the absence of an agreement, not a lesser sum.

The patterns of the agreements submitted to us that do provide for such a larger sum and how it should be computed, and in what installments paid, vary greatly. Practically no two of them are alike. The following variations, it seems to us, are worthy of consideration:

(i) The continuing firm to pay over a period of five years after death, in annual or semi-annual installments, a sum each year equal to one-half of the average annual distributions received by the deceased annually, for a stated period of years prior to his death.

(ii) The continuing firm to pay one hundred percent of a computed amount the first year after death, seventy five percent the second year, fifty percent the third, and twenty five percent the fourth, the computed amount being the average annual distribution to the deceased for a stated period of years prior to his death.

(iii) The continuing firm to pay twenty percent of such a computed amount each year for five years; but with an addi-

tional "longevity" sum, paid each year for five years, depending on how long the deceased partner was a partner in the firm or its predecessor firms; for example, the additional percentage of two percent of said computed amount for each year that the deceased partner had served as a partner, but with a ceiling for each annual payment of sixty percent of the computed amount.

(iv) Specifying an arbitrary figure as the value of the good will, as of date of death, say $150,000.00; or specifying an arbitrary figure as the net value of services rendered prior to death by the firm to all clients, which had not been paid for by the date of death, say $200,000.00; or specifying an arbitrary figure for both said items; then providing that the continuing firm will pay the same proportionate share of the arbitrary amount as his share of net income of the firm for the last full year prior to his death.

(v) In some agreements it is provided that any amount arrived at by the particular formula used may be subject to a discretionary reduction by such amount as the majority of the senior partners or the management committee may decide to be equitable.

(vi) In some, the amount and method of payment are merely to be "equitable" as determined by a management committee in its discretion.

The tax aspects of these payments are very important. They are discussed beginning on page 62.

2. Permanent Disability.

(a) The determination that a partner is permanently disabled shall terminate all his interests in the partnership and his units of participation as a partner. That determination shall be made only upon the affirmative vote by partners holding at least two-thirds of all units of participation, not including the partner whose disability is in issue or the units held by him, all in accordance with the provisions of Article IV of this document.

Relatively few of the written agreements we have examined provide for any payment in the event of permanent disability, and only three of them provide how permanent disability shall be determined. We are impressed with the desirability of such provisions and hence suggest this paragraph.

(b) As of the time of the determination of permanent disability of a partner, he shall no longer be a partner and

shall no longer have any duties to perform with respect to any professional employment of the firm, nor shall he be privileged to perform any services in any such matter. His units of participation shall expire as of that time, and hence no votes at any partnership meeting may thereafter be cast by him, and he shall not be entitled to any share of profits or losses thereafter. Except for sums to be paid to him by the continuing firm as provided for in subparagraph (c) of this paragraph 2, he shall not be entitled to any payments from the firm and shall have no rights or interests in any of its properties or assets from the time of such determination. However, the partners in their discretion may vote to bestow upon him some purely honorary title such as "Partner Emeritus," without compensation.

We note provisions somewhat like those in this paragraph in only three of the written instruments submitted to us. We believe there should be specific provisions covering these matters.

(c) The amounts payable by the continuing firm to or for the account of a partner determined to be permanently disabled shall be computed in the same way and paid in the same manner as if he had died on the date of the determination of his permanent disability. His death before all such payments have been made shall not interrupt the continued payments by the continuing firm; but no further sums shall be owing by the firm because of his death.

The usual provision, where payments on account of permanent disability are mentioned at all in the existing agreements we have examined, is that sums computed as set forth in the agreement shall be paid in the event of the "death or permanent disability" of a partner. More explicit provisions would appear desirable and should be considered. The tax aspects of these payments are discussed beginning on page 62.

Section D. Permanent Withdrawal of a Partner

1. Notice for withdrawal and effective date of withdrawal.

Any partner may voluntarily withdraw from the partnership at any time on notice of thirty days to the other partners. As of the expiration of the thirty day period, or sooner if mutually agreed upon, the withdrawal shall be effective.

Permanent withdrawal of a partner is a voluntary departure from the firm by resignation. It is to be distinguished from tem-

porary withdrawal; from expulsion, which is involuntary; from retirement; and from disability (see definitions pages 29–30).

2. Possible termination of the firm superseding withdrawal notice.

At any time during the pendency of a withdrawal notice and before the effective date of withdrawal, a termination of the firm may be voted in accordance with the provisions of Article X of this document. If this is done, the dissolution proceedings, the liquidation of assets, and the distribution of proceeds shall ensue, and the notice of withdrawal shall be of no effect.

The more partners in a firm, the less likely it is that dissolution of the firm will be caused by a withdrawal notice. But with the possibility in mind that two or more withdrawal notices might be served at about the same time, such a provision as this should be considered. Such a provision seems to us implied in many of the partnership agreements we have examined. It is expressed in very few.

3. Partition with and payments to the withdrawing partner.

The withdrawing partner's right, title, and interest in the firm shall be extinguished in consideration of the partition with and the payments to him by the continuing firm on the following bases:

(a) On the effective date of withdrawal he shall be paid the amount of his net capital in the firm plus interest thereon to that date. This payment shall be in cash unless the firm at its option elects to set aside for him and deliver to him in kind his pro rata share of all its capital assets. In the event the firm sets aside property for him it shall have a discretion as to what items to set aside, all items being valued for the purposes of partition, either by agreement between the firm and the withdrawing partner or by an independent appraisal, at current market prices.

(b) Within ninety days after the effective date of withdrawal an amount in cash shall be paid computed as follows:

(i) Start with his pro rata share of seventy-five per cent of the net profits (after reducing said profits by interest on the capital accounts of all partners to

the effective date of withdrawal) of the firm for that portion of its then current year ending on the effective date of withdrawal;

(ii) Add thereto any part of the twenty-five per cent of the firm's net profits for said portion of its then current year, which the management committee fairly determines to be his fair share of such net profits as a bonus payment to him based on the same considerations for that portion of the year that are provided in Section C of Article III for any full year, and bearing in mind that the same part of twenty-five per cent of the profits from receipts of the portion of the current year, will be applied to future receipts from fees charged for services rendered before the withdrawal, pursuant to the provisions of subparagraph (c) (ii) of this paragraph 3.

(iii) Deduct from the total arrived at in (ii) above all distributions the withdrawing partner had received from the firm on account of net earnings during the year;

(iv) Adjust the balance thus arrived at by debiting the discounted value at that time of his ratable share of payments yet to accrue against the firm on account of the prior death or permanent disability of a partner; and

(v) Adjust the balance thus arrived at by debiting and crediting all sums owing to the firm by him or by the firm to him immediately prior to the effective date of withdrawal.

If the foregoing computations result in a minus balance it shall be debited against each quarterly payment later accruing to him under the provisions of subparagraphs (c) and (d); and if the debt is not thus discharged, it shall be owing by the withdrawing partner to the continuing firm.

(c) In quarter-annual installments following the withdrawal, a share of the fees collected by the firm during each quarter thereafter for services rendered by the firm prior to the effective date of withdrawal shall be paid, the

amount of these quarter-annual payments to be computed as follows:

(i) Start with his pro rata share of seventy-five per cent of the gross amount of such fees collected during such quarter (after reducing same by the amount if any which the management committee of the continuing firm fairly determines to represent the share of all fees earned during that quarter by the firm which were prepaid by the client prior to the effective date of withdrawal);

(ii) Add thereto an amount which is that percentage of the figure computed under (i) immediately above, which the amount computed under (b) (ii) of this paragraph 3 bears to the figure computed under paragraph (b) (i) of this paragraph 3; and

(iii) The total amount thus arrived at shall be paid to the withdrawing partner with an accounting to him at that time of how the amount is arrived at, provided he then makes a like accounting and payment if any is due by him to the firm, in accordance with the provisions of subparagraph (d) immediately following.

(d) Subject to the right of each client to direct that any or all of his pending matters in which the firm is employed on the effective date of withdrawal shall be handled for him by the continuing firm rather than the withdrawing partner, the withdrawing partner, at his option, as to each of the current employments of the firm pending on that date for which he was the responsible partner in charge, shall then be entitled (provided he then pays the firm for all its expenditures on behalf of the client in connection with such matter for which the client then is or would later be indebted to the firm) to assume all further reponsibilities to the client for that matter and to take with him all files and documents pertaining wholly to that employment. Thereafter, the withdrawing partner shall bill the client for and be entitled to collect for disbursements theretofore made and services theretofore rendered in connection with that matter as well as for subsequent services and disbursements. The withdrawing partner shall account to the continuing firm with respect to his gross collections of fees for services rendered on each such matter by the firm prior to the effec-

tive date of withdrawal, and shall pay the firm in cash, in quarter-annual installments from such collections, amounts caculated on the same basis, or as nearly as possible on the same basis, as the firm shall be accounting to the withdrawing partner and paying him in accordance with the provisions of sub-paragraph (c) immediately above.

The basic conceptions of what rights a partner ought to have if he withdraws, of his economic freedom to withdraw at any time, and of limitations on that right, vary widely in the existing agreements we have examined. On one extreme, the withdrawing partner, like the expelled partner, seems to be given a minimum. Such a provision may well operate as an economic compulsion on partners not to withdraw, especially if they have passed their prime.

On the other hand there are many existing agreements which recognize that partners are desirabe only so long as they are willing to continue as partners and which make it easy for any partner to resign on a basis entirely equitable to him. Those organizing a new firm should carefully consider their long-range desires on this point and select a pattern for themselves, modifying as they wish the provisions in bold-face—or one or another of the following possible variations:

(i) In some agreements, the withdrawing partner, leaving all the clientele of the continuing firm and agreeing not to practice law in the same city for an agreed term of years following the withdrawal, takes with him none of the profits or assets of the continuing firm; upon the withdrawal he is paid in cash, or is to be paid in installments, the book value (or the appraised value) of his share of the capital assets of the firm, and no more. A fair and valid consideration for this harsh result might be found in the fact that all partners entered into the stipulation prescribing such treatment for any withdrawing partner. Sometimes this consideration is expressed in terms of liquidated damages for the injury he has caused to the firm by his voluntary withdrawal.

(ii) In some agreements, in addition to his share in the capital, the withdrawing partner is to be paid his share of the net income of the firm, pro rata, for the part of the current year expired on the date of withdrawal, to be computed when the annual net income for the year is later computed; or as an alternative, his share of those fees billed up to that time and later collected by the firm for services

rendered to the date of withdrawal, plus, in some agreements, his share for fees billed and collected after the effective date of the withdrawal for services rendered and not billed at the time of withdrawal.

(iii) In some agreements, a withdrawing partner is expressly permitted to practice in the same city with the continuing firm. Some such agreements do and some do not contain a covenant, binding for a specified period of years, not to accept any employment by any client who prior to the withdrawal had been a client of the firm.

(iv) In many agreements, much more liberal treatment is given to a withdrawing partner who is not to remain in private practice, such as one who is to become a judge, or a public official, or general counsel for some corporation, or who is entering business full-time.

(v) In many agreements the withdrawing partner is privileged to practice in the same city, and whether he does or not, is given much more liberal treatment for his interest in the firm; for example, payments equal to those which would have been made to his estate had he died instead of withdrawing.

(vi) In many agreements a ratable partition of the assets of every kind, capital, earned and undistributed income, and fees to be collected for work-in-process, are partitioned, either in kind or with cash payments to the withdrawing partner, depending upon whether the continuing firm exercises an option given it to retain all or any of such items and to pay fair value for those retained.

(vii) In many agreements the withdrawing partner is granted a partition and in addition express rights as to his own clients and their files and records of every sort.

Believing in the dividends of happiness from a continuing partnership which is at all times economically voluntary, we have suggested in our text the consideration of a liberal policy regarding withdrawals. Such liberality, as we see it, makes appropriate the provisions, which might otherwise be inappropriate, that would prevent any one partner from vetoing the addition of a new partner, other changes as to partners, and other amendments to the Articles of Partnership. In our draft of Articles, no partner, unless he alone has units of participation aggregating more than one-third of the total, has such a veto, even though the proposed change be quite radical.

There is very definite relationship between the provisions for annual performance bonuses, suggested as Section C of Article III of our draft of Articles of Partnership, page 45 above, and the withdrawal provisions in this Section D of this Article. A material change in either will justify serious consideration of a change in the other.

Those solo practitioners who have entered into a new firm together in an experimental frame of mind and have adopted provisions in their original agreement such as paragraph 6(b), page 19, will surely feel and some others may feel that a withdrawing partner should be assured, as part of a fair partition, that insofar as his clients want to go with him as he departs from the firm, he should be entitled to a partition of clientele as well as of the properties and receivables of the firm. We consider that provisions in the Articles of Partnership as to what current employments of the firm, if any, the withdrawing partner may, with the consent of the client take with him as he withdraws from the firm, are interrelated with the provisions as to the duties of the respective partners to one another in their relations with clients. We accordingly recommend that careful consideration be given to the provisions of the form of partnership agreement in Chapter One of this pamphlet (subparagraph (b) of paragraph 6 at page 19 above) and the alternative suggestions with reference to these matters under Section B of Article VI of Chapter Two, page 84 below.

The provisions of paragraph 3 of this Section, subparagraphs (a), (b), (c) and (d) are complicated and detailed. Such provisions, or something like them, seem necessary if the decision is to account to the withdrawing partner for his share of fees earned prior to the withdrawal and not then paid, on the basis of the net results actually experienced. A much shorter provision, as an alternative, is presented in our suggested form, Chapter One, paragraph 5(c) page 18. There, in case of withdrawal or death of a partner, the continuing partners estimate the amounts to be paid after withdrawal or death on pre-withdrawal or pre-death services, and payment is computed on that estimate rather than on actual results. This is a much simpler computation. At the time of signing the Articles, when no one can estimate in advance who may withdraw, or when, or who the members of the management committee may then be, this may be as fair a provision as any, making quarterly computations and accounting unnecessary.

The provisions of subparagraph (b) of paragraph 3 would require an interim calculation from the partnership books to com-

pute the withdrawing partner's share in partnership earnings for the portion of the current partnership year preceding his withdrawal. If the parties desire to avoid the necessity of such an interim calculation, the partnership agreement could provide that the withdrawing partner's share of the earnings for the current year would be determined by using the partnership earnings for the entire year and taking a fraction thereof equal to the fraction of the year preceding the partner's withdrawal. Or the agreement might provide that the partnership could at its option apply either method for determining the withdrawing partner's share of the partnership earnings for the period preceding his withdrawal. If the computation is to be made on the basis of the entire partnership year, the ninety-day provision would not be appropriate.

The provisions of subparagraph (d) of paragraph 3 are feasible if the management committee has definitely placed the primary responsibility for each employment in the office on one specific partner. Normally this occurs as to most employments even if the committee takes no action. We believe strongly that there is no more important function of management in any law firm than to see that this responsibility is definite and fixed, not by accident but by planned procedure, supervised routinely by the management committee or someone delegated by it. Hence this subparagraph (d) is in no way dependent on use of an allocation system by the firm for any purpose. Of course it is clear that this subparagraph (d) and the reference to it in the concluding sentence of subparagraph (c) can be deleted, if desired, leaving as a workable alternative the balance of the section.

FEDERAL INCOME AND ESTATE TAX EFFECTS OF PAYMENTS FOR PARTNER'S INTEREST

The separation of a partner from a firm, whether by death, disability or withdrawal, involves a number of important tax considerations which should be borne in mind in the drafting of a partnership agreement. It is most important, both as to the departing and remaining partners, that the parties understand the tax effect of whatever provisions are contained in the agreement.

We shall first discuss these problems as to a deceased partner, and then point out any significant differences between the situation brought about by the death of a partner and that brought about by permanent disability or withdrawal.

Deceased Partner

Estate Taxes—The partnership interest of the deceased partner will be a part of his estate for estate tax purposes. The estate tax will be based on the fair value of the entire interest. This value will include not only the deceased partner's interest in the properties of the partnership and any portion of the earnings to the date of death which have not been withdrawn, but also his interest in all uncollected fees, whether for work already performed or performed thereafter. As a practical matter, if the agreement is an arm's length agreement, the consideration to be received for the interest will generally be accepted by the Commissioner as representing the estate tax value—of course after first deducting from the amounts to be paid whatever discount may be appropriate on account of delay in payment and any uncertainty as to payment. The allocation by the parties of this total value as between capital and income items will also generally be accepted by the Commissioner as a proper allocation, since the interests of the parties as to the allocation are generally adverse.

Income Taxes on "Liquidation" of Interest—The death of a partner does not terminate the taxable year of the partnership as to him. Therefore, no part of the income of the partnership for the period ending with his death is reportable in the final return of the deceased partner. It is reported by his estate (the term "estate" in this connection covers any other recipient) for the year of the estate in which the partnership year ends. This is true even though the full share of his earnings for the period prior to his death may have been withdrawn by him; and it is true even though the partnership consisted of only two persons.

The provisions in the text for the payout of a deceased partner provides for what is, under the Internal Revenue Code, called a "liquidation," rather than for a "sale"; and we discuss immediately below the tax treatment of such liquidation payments.

The payment under subparagraph (a) of paragraph 1 of Section C (page 51), except for the "interest" element, is in payment for the deceased partner's capital interest in the firm. This payment for the capital interest is usually offset by the estate tax basis of such interest, and there is no income tax to the estate except in the unusual case where the payment exceeds the estate tax basis. Any gain would be capital gain. The payment is not deductible by the partnership in computing the income distributable to the remaining partners.

The payments for the portion of the partnership year prior to death under subparagraph (b) of paragraph 1 (page 51), and the so-called "interest" on the capital account for the period under subparagraph (a), represent payment to the deceased partner's estate of the undrawn portion of his share of partnership income prior to his death. It is merely the distributable share of pre-death earnings which are attributable to him and which have automatically reduced the other partners' distributable shares of partnership earnings for the period. These payments, and also the deceased partner's share of the earnings for such period drawn prior to his death, are taxed to the deceased partner's estate in the taxable year of the estate in which the taxable year of the partnership ends. Notwithstanding the fact that these payments may have been valued for estate tax purposes at near their full value, they are taxable in full at ordinary income rates. They are treated as income in respect of a decedent, and the estate taxes paid on account of them are deductible in computing income taxes on the payments.

The payments under subparagraph (c) of paragraph 1 of Section C (page 52), represent the share of the decedent in unrealized receivables, and are taxable in full as ordinary income to his estate. Notwithstanding the value assigned to them for estate tax purposes, they have a zero basis for income tax purposes. They too are income in respect of a decedent, and the estate taxes paid on them are deductible in computing income taxes due. They are deductible in computing the income of the partnership distributable to the surviving partners. They are reportable by the decedent's estate in its taxable year in which ends the taxable year of the partnership in which they are deductible under the partnership's method of accounting. If the payments under subparagraph (c) (page 52) were not guaranteed amounts (percentage of past income) but were fixed at a certain percentage of the income of the partnership for years following death, the income would be taxed to the successor as though he were a member of the partnership as long as the payments continued. In either case, the last payment terminates the partnership taxable year as to the estate, and there may be a bunching of income at the end of the payments unless the taxable year of the estate is so arranged that this will not occur.

Income Taxes on Sale of Interest—If the agreement provides that the deceased partner's interest, instead of being disposed of by liquidation, is disposed of by sale to anyone, even to all of the surviving partners, the income tax consequences are technically

quite different than in the case of a liquidation, and they may be very different in substance, especially if there exists the possible loophole in the statute which we suggest below. It is very doubtful whether the distinctions which now exist will be permitted to continue.[6]

In the case of a sale, the partnership taxable year as to the decedent partner's interest terminates immediately upon the sale of his entire interest. Therefore, in determining *when* a sale is to be effective, it is vital that one consider whether he wishes the partnership taxable year to close at the partner's death or at a later time. If the sale is effective immediately upon death, the partnership year as to the decedent closes at death and the income attributable to the deceased partner for the portion of the partnership taxable year prior to death will be taxable to the decedent and not to his successor. This may bunch more than twelve months' income in decedent's last taxable period if the partner and the partnership are on different taxable years (see page 35 and footnote 4). Sometimes, especially if the taxable year of the partner and the partnership are the same, the deceased may want a termination at death to produce income to offset credits and deductions available for the period ending with his death. But in view of the great uncertainties that exist as to the future, the best gamble will ordinarily be to have the income taxed to the estate rather than to decedent. This is so because an estate, if the will is properly drawn, has much flexibility, as an individual does not, in dividing income among a number of taxpayers, including the surviving spouse, who will be able to file a joint return for the year. Therefore, the safer choice generally is against terminating the partnership taxable year at the death of the decedent.

If it is desired to terminate the partnership taxable year at the death of the decedent, this can be done only by a definite provision beforehand as to sale immediately at death on terms which are definitely stated or which can be ascertained at the date of death on the basis of a formula stated. A provision for a sale at any time after death, no matter how soon thereafter, does not close the partnership year as to the decedent until the sale is actually made and does not make the income taxable to decedent. An op-

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[6] Legislation may soon be passed along the lines of proposed IRC § 741(b), H.R. 9662 (as reported by the Senate Finance Committee) S.Rep. 1616, 86th Cong., 2nd Sess. (1960), to provide that a sale of a partnership interest to the other partners pro rata (i.e., substantially in accordance with their interest in the partnership profits or capital) would be treated as a "liquidation" rather than a "sale."

tion to sell at death, no matter how soon after death it is exercised, would not close the partnership taxable year at death. A change in the statute has been proposed providing more flexibility.[7]

As in the case of a liquidation, amounts paid for properties and good will of course are not deductible by the payors in computing current income. Such payments are capital amounts as to payor and payee.

In the case of a sale of a deceased partner's interest, unlike on liquidation, amounts paid by the purchasing partners for unrealized receivables are not deductible by them in computing their taxable income from the partnership. However, it will normally be possible, by proper election, for the payors to secure a step-up in the basis of the receivables so that, when they are collected, there will be no tax on the recovery of the amount paid for decedent's interest. However, such election should be entered into only after careful consideration of the circumstances.

The Internal Revenue Code, as it no doubt will be interpreted by the Internal Revenue Service, taxes the decedent's estate on the amounts received on a sale of decedent's interest in unrealized receivables exactly as it would tax such amounts received on liquidation. It treats the full amount recovered as ordinary income, treats it as income in respect of a decedent, and allows a deduction of the estate tax thereon in computing income taxes. This treatment probably is not justified by the language of the Code, but the Code will no doubt be amended so as clearly to provide what the Internal Revenue Service now interprets it as providing.[8]

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[7] We would expect that legislation will be adopted providing that the partnership taxable year of a deceased partner will close at death unless his successor in interest elects not to close the taxable year. See proposed IRC § 764, H.R. 9662, 86th Cong., 2nd Sess. (1960).

[8] Where a decedent's interest is disposed of by sale rather than liquidation, there appears to exist an unintended loophole in the statute in that, when interpreted literally, it appears to cause a step-up at death in the basis of decedent's interest in unrealized receivables. If the basis of these receivables is stepped up to the estate tax value, the amount paid for them, to the extent of their basis for estate tax purposes, would constitute a return of capital and would not be subject to tax.

This loophole will probably be closed by legislation along the lines of proposed §§ 202 and 203(b) of H.R. 9662, 86th Cong., 2nd Sess. (1960), which would amend IRC §§ 691 and 1014(c) to accomplish this result by providing that there would not be a step-up in the basis of the unrealized receivables in such a case, nor in the basis of decedent's partnership interest attributable to the value of such unrealized receivables.

Good Will—Where, as is here provided in the text, there is a liquidation rather than a sale of a deceased partner's interest, the Internal Revenue Code expressly provides that no amount will be treated as paid for good will unless the contract specifically provides (as this partnership agreement does not) for good will payments. If the contract does so provide, the Commissioner will generally accept the amount allocated by the parties to good will unless it is unreasonable. Any payment for good will, like payment for properties, would be a capital payment and would not be deductible in computing income distributable to the remaining partners. There would generally be no income tax to the estate, since usually the payment would be equivalent to the estate tax value of the good will. In the case of a sale, there is no option, such as on a liquidation, to ignore good will. On a sale of a partner's interest, therefore, the Commissioner legally would be able in a proper case to assign value to good will. Nevertheless, the allocation by the partners of the purchase price between properties and unrealized receivables (or between properties, unrealized receivables and good will) will generally be acceptable to the Commissioner since the interests of the parties are usually adverse.

Withdrawing or Disabled Partner

The tax effect of payments are the same whether the partner has voluntarily withdrawn or has been determined to be permanently disabled. They are in most respects not materially different from the tax effects of payments in liquidation of the interest of a deceased partner.

The provisions for payments to a withdrawn or permanently disabled partner in the boldface text do not cause a termination of the partnership taxable year as to such partner, and therefore he will continue to report his income from the partnership on the basis of the partnership taxable year, both as to his interest in pre-withdrawal income of the partnership and the payments to him on account of his interest in post-withdrawal income of the partnership, until the withdrawing partner's interest is completely liquidated.

The payments in cash to him under subparagraph (a) of paragraph 3 of Section D (page 56), except for the so-called "interest" payments discussed in the next paragraph, will apply against the basis of his interest in the partnership. In the usual case, the basis of his interest in the partnership would be expected to approximate the amount received for it. Assuming that he is paid entirely in cash, he will have a capital gain or loss to the extent of

any difference. If his basis is not exhausted by the cash payment and he receives any properties, he will suffer no gain or loss, and any portion of his basis remaining after deducting the cash will be divided among the properties received in proportion to that basis in the hands of the partnership. There will be no deduction by the partnership for any cash or property turned over to the withdrawing partner.

The amounts received under subparagraph (b) of paragraph 3 (page 56) and any "interest" payments under subparagraph (a) (page 56), including any such amounts paid or distributed to the withdrawing partner prior to the withdrawal, will be taxed to him as ordinary income in his taxable year in which ends the year of the partnership during which the withdrawal occurred.

The amounts received under subparagraph (c) of paragraph 3 (page 57) will be taxed to the withdrawing partner as ordinary income in the taxable year during which ends the taxable year of the partnership when the amounts in question are taken into the income of the partnership.

As to subparagraph (d) of paragraph 3 of Section D (page 58), there will be no tax to the withdrawing partner when the partnership turns over to him the cases which he is to handle and imposes on him the right and duty to bill the client and collect for services theretofore performed by the firm, as well as those thereafter rendered by him. The withdrawing partner is, as to collection of fees for services rendered by the partnership, substantially in the position of a collection agent; and the entire amount collected for pre-withdrawal services should be treated by the partnership and the withdrawing partner for tax reporting purposes as received by the partnership at the time it is received by the withdrawing partner, and it should be reported by the remaining partners and by the withdrawing partner on the basis of the partnership taxable year in which it is thus received.

Of course, if, under subparagraph (a) of paragraph 3 (page 56), any amount were assigned by the parties to good will, there would usually be a taxable gain to the withdrawing partner since the good will would normally have as to him a zero basis—not a basis of the amount received, as would usually be true in the case of a deceased partner. The gain would, of course, be capital gain.

If there were a sale of the withdrawing partner's interest to the surviving partners instead of a liquidation, there would be, at the

date of sale, a termination of the partnership taxable year as to the withdrawing partner, and the withdrawing partner's portion of income prior to the withdrawal would be taxable to him in his then current taxable year. The amount paid to the withdrawing partner for his interest in unrealized receivables would be taxable in full to the withdrawing partner as ordinary income. There could be no step-up in basis of the unrealized receivables, as may possibly be true under the present statutes in the case of a decedent.

Agreement as to Tax Effects

In view of the differences in tax results dependent upon distinctions which may not be readily apparent to lawyers outside the tax field, it is quite important that contracts with reference to the liquidation or sale of the interest of a withdrawing or disabled partner, and especially of a deceased partner, should clearly express the intention of the parties as to the tax effects anticipated by the parties to flow from their agreement. Naturally, they should be careful to see that the agreement does what they think it does. As an addition to the boldface agreement, therefore, we suggest a paragraph pertinent to all provisions of Sections C and D of Article V:

It is contemplated by the parties to this agreement that any payments hereunder for the interest in the firm of a withdrawing or permanently disabled or deceased partner are, to the extent that they represent payment for partnership properties, capital payments falling under Section 736(b) of the Internal Revenue Code. All other payments for the interests of such persons, including so-called "interest" payments on capital invested, are intended by the partners as payments of partnership income under Section 736(a) of the Internal Revenue Code. Each partner covenants for himself and his heirs and assigns that he will make no claims or representations with reference to the income tax nature of any such amounts that are inconsistent with the intent expressed in this subparagraph.

If agreements different from these set forth in the boldface type are entered into, a paragraph should be drafted expressing the intent of the parties as to the tax effects of such agreement.

Section E. Retirement of Partners; Gradual Steps toward Retirement; Retirement Plans for Partners

The retirement of a partner, as we use the term (see page 29 above) involves his complete retirement from his firm so that he no longer serves it or its clients professionally except as requested specifically from time to time to do so by the continuing

firm; his continuing relation with the firm as a partner is on an inactive or consultive basis such as "Of Counsel." His units of participation are suspended. To be distinguished from a retired partner are former partners who have withdrawn from the firm and have no continuing relationship with it, or semi-retired or partially retired partners still on an active basis though reduced from full participation to a part-time performance of duties and a reduced compensation.

1. **Retired Partners; Plans for their Compensation.**

   (a) **A retired partner shall receive no current compensation from the firm in payment for current services, either by way of participation in distribution of net profits of the firm or agreed monthly drawings. He may receive bonuses or specifically agreed fees or shares of fees. He shall be offered, at the expense of the firm, so long as he is able and wishes to use same for at least twenty percent of the business time of each year, an office in the offices of the firm and a secretary to give him such secretarial assistance as he may require; in consideration of which he shall, whenever convenient to him, advise with and serve as consultant to any of the partners or associates of the firm. His name shall be carried on firm letterheads, in legal directories and otherwise not as an active partner of the firm but under the heading, "Of Counsel."**

   (b) **The management committee in its discretion is authorized to pay during any year, to each retired partner as a "retirement bonus", up to twenty-five percent of his average annual income for the last three full years during which he was an active partner of the firm.**

Very few of the existing agreements submitted to us contain any provisions about retirement of partners. Those that expressly refer to retirement contain some of the provisions that we are recommending and by implication seem to incorporate others. Of course, such provisions vary. That each retired partner is to have an office and a secretary is not an unusual provision. Some, as do our bold-face provisions, require for this some specified portion of the retired partner's time. Generally, his activities appear to be left to his discretion, subject to the possibility that the active partners or the management committee may alter his status.

In our text we are suggesting that a partner, as of the date of his retirement, receive no payment patterned upon payments

made by the firm in the event of the death or permanent disability of a partner. In the two latter events, his relation to the partnership is terminated; in our draft of text, however, it is not terminated by the act of retirement. As a continuing partner, "Of Counsel," with a minimum of continuing activity for the firm contemplated and an income from the firm limited to payments made as retirement bonuses at the discretion of the management committee, the retired partner continues to have rights to payments in the event of death or permanent disability. Those rights are merely held in suspension; they are not lost. Then on termination of his interest as a partner by death or otherwise, the suspension is lifted and these payments, deferred during the period of retirement, become due. This treatment is found in a few of the partnership agreements we have examined. On consideration, these payments in installments, from date of retirement rather than date of death, may be preferred, as provided in some other partnership agreements.

POSSIBLE TAX DEFERRAL OF LAWYERS' COMPENSATION

The tax law has prevented the establishment of tax-deferred profit-sharing plans for self-employed, including as self-employed all partners of law firms. As a result of this, law firms have been deterred from adopting for the benefit of any of the lawyers in their offices, pension plans or retirement plans or other profit-sharing plans. There is, of course, nothing to prevent a law firm from including lawyer employees in a tax deferring plan for retirement of employees. Only one firm has yet done so insofar as we know. Corporations with tax-deferred plans applicable to executives, their legal staffs and lesser employees have a real advantage in negotiating for the employment of lawyers for their legal departments.

For years attorneys in private practice have been growing more acutely aware of the fact that lawyers who work as employees of corporations as house counsel have been able to obtain certain tax advantages which are not available under the present tax laws to the partner of a law firm in private practice. Most important of these advantages is the privilege of participating in employee pension and profit-sharing plans, which are entitled to special tax treatment under the Internal Revenue Code. The advantages of such plans are numerous; although the employer secures an immediate tax deduction for its contributions to the plan, the employee pays no current tax on the employer's con-

tribution; the employee can put part of his own after tax pay into the plan; the pension and profit-sharing plan may qualify for tax exemption of its earnings; the retiring employee can take down his entire stake in the exempt trust in a lump sum payment at capital gain rates, or he can draw it out as a pension subject to the special rules for taxing employee annuities; if the employee retires at age 65, his pension will be subject to the retirement income credit rules, and he will be entitled to his extra personal exemption; if he should die before receiving his share of the pension trust fund, only his contributions thereto will be subject to estate tax if the annuities are payable to a beneficiary other than the executor and his estate or his heirs can receive up to $5,000 of the company's contributions free of income tax. There are additional "fringe benefits" which corporate employee status may afford a lawyer, such as non-qualified deferred payment plans, health and accident plans, sick pay, and group life insurance plans.

The Keogh–Utt Approach

Attempts to obtain comparable pension and profit-sharing benefits for professional people through corrective Federal legislation have failed to date. The American Bar Association and other associations of professional people have for years urged Congress to adopt amendments to the Internal Revenue Code which would permit self-employed persons and partners to set aside for retirement, and free of income tax, some portion of their income, as corporations are permitted to set aside substantial sums for their employees, including the top executive-owners. For a time it seemed that the efforts might be substantially successful, but after more than ten years of effort no such provision has been enacted. Again in 1961 a bill (the Keogh-Utt bill) passed the House of Representatives and, in much amended form, was reported out by the Senate Finance Committee, but was not acted upon by the Senate. The privileges proposed to be granted are much more limited than those originally hoped for. The provisions of the bill do not approach equality of treatment of self-employed as compared with corporate officers and employees.

The Internal Revenue Code of 1954 did add provisions permitting certain unincorporated businesses to elect corporate income tax treatment (Subchapter R). However, such provisions were made expressly inapplicable to enterprises (such as law firms) in which capital is not a material income producing factor. Moreover, the partners or the proprietor of an electing enterprise

were expressly excluded from being considered as employees for purposes of pension and profit-sharing plans under the Code. Correction of these and other faults in Subchapter R presents a possible solution to this tax problem confronting lawyers.

The Association or Corporation Approach

The possibility of obtaining corporate Federal income tax treatment directly by incorporating has been forbidden to attorneys in the past under the various state laws. However, corporate tax treatment under the Internal Revenue Code is not confined to corporations as such, but by definition "the term 'corporation' includes associations". Unfortunately, the word "associations" is not itself defined in the Internal Revenue Code. The Treasury Regulations under the 1939 Code stated in effect that if there was centralization of management and continuity of life of the organization, it should be treated as an association taxable as a corporation.

Several years ago, a group of doctors in Montana founded a medical clinic association and were able to convince the Federal courts that such an association should be taxed as a corporation under the regulations under the 1939 Code, despite the Government's contention that the practice of medicine was a personal endeavor which could not be engaged in by a corporation under the applicable state law and even though the organization was probably technically a partnership under the local law. See *U. S.* v. *Kintner*, 216 F.2d 418 (9th Cir.1954). Other doctors successfully followed this lead: See *Galt* v. *U. S.*, 175 F.Supp. 360 (N.D.Tex.1959).

Subsequently, however, on November 15, 1960, the Treasury Department promulgated regulations under the 1954 Internal Revenue Code governing the definitions of "associations" and "partnerships", which laid down new tests for distinguishing between "partnerships" and "associations" taxable as corporations for Federal income tax purposes. These Regulations set forth the following factors as determinative of the status of an organization as a corporation rather than a partnership:

1. Continuity of life.
2. Centralized management.
3. Liability for corporate debts limited to corporate property.
4. Free transferability of interest.

In order to qualify as an association rather than a partnership under the new Regulations, the professional organization must

have at least a majority of the above attributes. The Regulations further provide that the legal relationships between the partners shall be determined under local law, thus making the technicalities of state law, such as the Uniform Partnership Act, determinative in ascertaining whether any one of the four particular characteristics is present. As a result, if these new Treasury regulations are upheld in the courts as a valid exercise of administrative authority, despite the fact that there was no change in the statutory law or the court decisions to justify their issuance, law firms would not be able to qualify as associations for Federal income tax purposes in any state which had adopted the Uniform Partnership Act, without added provisions covering this point.

Consequently, in recent months there has been a growing movement in the various states to revise the rules governing professional organizations so that they may satisfy the Federal rules governing the taxability of associations or corporations. Texas, when adopting the Uniform Partnership Act in 1961 added provisions changing the effect of the Act on the legal attributes pointed out in the regulations as preventing association treatment. By November of 1961, Alabama, Connecticut, Florida, Georgia, Illinois, Ohio, Oklahoma, Pennsylvania, Tennessee and Wisconsin enacted legislation to permit lawyers to practice law as a corporation or association. Other states have enacted legislation to permit doctors but not lawyers to practice in corporate or association form.

The practice of law in corporate or association form raises ethical considerations which have not been completely resolved to date. In responding to a petition of the Florida Bar, the Supreme Court of Florida, in an opinion filed on October 11, 1961, determined that members of the Florida Bar should be permitted to practice law in corporate form and approved amendments to its integration rule and its code of ethics to permit this practice.

A special committee of the Oklahoma Bar Association has filed a report with its Executive Council recommending that it apply to the Supreme Court of Oklahoma for a pronouncement to permit Oklahoma lawyers to incorporate the business aspects of their practice.

The Standing Committee of the American Bar Association on Ethics and Grievances is now considering these problems and it is anticipated that it will render an opinion in the near future.

We imply no opinion here, on any phase of any such problem. We imply no opinion here on the extent to which any of the provisions for Articles of Partnership for a law firm, discussed

herein, may be adopted for use in Articles of Incorporation or Bylaws of a professional corporation or in Articles of Association in a professional association.

Regardless of the final outcome of the new state professional association and corporation laws, it may be that this grass roots movement will have the ultimate effect of causing the Federal taxing authorities to amend the law to permit professional men to qualify directly for equal treatment with other businessmen in such matters as pension and profit-sharing plans. In this respect, the present situation is reminiscent of the fight some years ago to obtain equality of treatment between taxpayers residing in common law states and community property states. It will be recalled that after some common law states adopted community property laws, the matter was finally resolved in the Revenue Act of 1948 by permitting joint return income and gift tax splitting and the marital deduction for estate tax purposes.

The Lawyer-Employee Approach

As stated above, under present statutes a law firm may set up for its employees, including lawyers who are employees and not partners, a pension or profit-sharing plan which will qualify for exemption so long as there is no prohibitive discrimination as between employees. At least one firm has done so. It has been suggested that some law firms might be set up upon the basis of having only a few lawyers who are partners with all other lawyers as employees. For example, a firm of numerous partners, who have placed in a small continuing committee all management decisions, might find this worthy of consideration. There is nothing legally to prevent such an arrangement as to the lawyers who are really employees and not partners, and if the fact of such relationship is clear at all times to the parties themselves and to the public, such lawyer employees could of course be permitted to share on some agreed basis in the profits of the firm, just as any employee of a corporation or other employer may be permitted to share in profits.

The Informal Approach

While it is not possible for partners in law firms to enjoy in any substantial degree the benefits which corporate executives receive under pension and profit-sharing plans, it is possible, if tax considerations are kept in mind, for them to get some of the benefits of taking income out of high brackets in peak income years and recovering the amounts in later years when income does not reach into the high brackets. This may be accomplished

by the simple expedient of dividing income between younger and older partners on a more even basis than is frequently done under present partnership arrangements. More income would go to the younger men, who are in the lower brackets, at a time when they are in more need of money, with the expectation that the older men will be paid more in their later, less productive years or after retirement than they might otherwise receive.

In view of the fact that, as a practical matter, in large and growing firms percentages must be changed frequently to accommodate changes in the firm so that no percentage arrangement can be expected to last for any extended period of time, it is difficult to base any such arrangement as is suggested upon definite contract agreements. On the other hand, if proper care is taken in developing the feeling of oneness that best promotes the interest of a law firm, it would seem possible to develop a spirit which would enable the older men participating in such an arrangement to feel some assurance that their earlier liberality will not be forgotten.

There would seem to be serious tax considerations weighing against any effort on the part of a partner to contract away a percentage of income which he might demand at the present, in consideration of definite agreements by the partnership or by partners to pay him any definite amount of money in the future.

It is to be assumed that distributions in later years which are here suggested to balance out smaller payments in earlier years would not take the place of payments to a withdrawing or deceased partner which would otherwise be available to him. Nor is there any reason why, in recognition of earlier liberality, payments to such a partner on withdrawal or death could not be made on a basis different from the basis on which payments are made to partners generally.

2. When a Partner Retires.

Any partner may retire at any time upon approval by the partners, in accordance with provisions of Article IV of this document, of his request to retire. Any partner who has attained the age of seventy-five shall retire if and when requested to do so by partners holding at least two-thirds of the units or participation entitled to vote.

There are provisions on this subject in relatively few of the existing agreements submitted to us. Optional retirement is provided in some of them at any time after the age of sixty, and in some of them at any time after the age of sixty-five. Required retirement is provided in some of them at any time after attain-

ment of the age of seventy, in others after the age of seventy-five and in one after the age of eighty. Unanimous decision of all other partners is required in some of these agreements. Others provide that the other partners or a management committee shall be the sole judge of the need for retirement and the terms thereof.

3. **Gradual Steps Toward Retirement.**

If the request of a partner that he be permitted to enter upon and carry out a plan for gradual retirement is approved by vote of the partners in accordance with the provisions of Article IV of this document, a program of gradual steps toward his retirement shall be entered into and consummated, as agreed between him and the firm. Such a plan may be required of any partner at any time after he attains the age of seventy. The adoption of such a plan as to any partner will involve a program over a period of the following ten years (provided his interest in the firm is not meanwhile terminated by death, total disability, withdrawal, or expulsion; and provided said interest is not modified by an agreement between him and the firm approved by vote of the partners). During that ten-year period his duties shall be gradually reduced and hence, his units of participation and thus his share of net profits or losses, and his voting rights shall be reduced from what they are at the start of the period by eight per cent at the end of each of the first nine fiscal years, of the period, and his remaining interest in the firm shall be terminated by effecting his retirement at the end of the tenth year.

We strongly believe in the principle of career planning. It should commence when an associate first begins his employment with a law firm. In our view every partner should look forward to a period of gradual retirement. This is normally in the best interest of the individual partner and is certainly desirable for the law firm. As a suggestion only, looking toward the commencement of planning along these lines, we include the foregoing paragraph. In the agreements submitted to us, we have found three which expressly provide for such a program. Since every agreement is subject at any time to amendments redefining the relationship of every partner to his firm, other firms doubtless have something of the sort in effect without any reference to that fact appearing in the forms of agreement that we examined.

Section F. Expulsion of a Partner

1. **Expulsion for cause.**

A partner shall be expelled for cause when it has been determined, by vote of partners in accordance with the provisions of Article IV of this document, that any of the following reasons for his expulsion exist:

(a) Disbarment, suspension or other major disciplinary action of any duly constituted authority.

(b) Professional misconduct or violation of the canons of professional ethics, if such misconduct continues after its desistance has been requested by the management committee.

(c) Action that injures the professional standing of the firm, if such action continues after its desistance is requested by the management committee.

(d) Insolvency or bankruptcy or assignment of assets for the benefit of creditors.

(e) Breach of any provision of the Articles of Partnership of the firm, which all other partners expressly agree is a major provision, if, after the breach has been specified as a prospective ground for expulsion by written notice given by the management committee, the same breach continues or occurs again.

(f) Any other reason which the other partners unanimously agree warrants expulsion.

2. **Effects of Expulsion for Cause.**

Upon a determination that a partner be expelled for cause, he shall thereby be so expelled and shall have no right or interest thereafter in the firm or any of its assets, clientele, files or records, or affairs. He shall have thereafter no further professional duties to the firm or any of its clients and shall be privileged to serve none of them thereafter. He shall immediately remove himself and his personal effects from the firm offices. Upon any such expulsion, the expelled partner shall be obligated not to accept employments for professional services from any who have been clients of the firm during the last five years preceding the determination of expulsion, the obligation not to accept such employments being a continuing one for a term of the next ensuing five years. From the time of the expulsion, the expelled partner shall have no participation whatever in the income or losses of the firm or any distribution or drawings from the net in-

come. Realizing that the existence of any such cause for expulsion may bring disgrace on the firm and damage the firm in amounts and ways that cannot be calculated or become liquidated in amount, each partner agrees that the firm shall succeed to all of the rights of the expelled partner as hereinabove set forth and shall retain all sums unpaid by it to the expelled partner, whether accrued or not at that time; further, that the receipt and retention by the firm of all such rights and sums shall satisfy and discharge the damages of the firm, being retained as and thereby determined to be liquidated damages; no other indebtedness of the expelled partner to the firm being discharged.

Most of the existing agreements submitted to us contain no provisions for expulsion. None of those that do contain provisions makes any distinction between expulsion for cause and expulsion without determining any cause therefor. Some of the existing agreements, by specifying that expulsion shall be for causes that are stated, imply that there shall be no expulsion for any reason not expressly stated. Some of the existing agreements provide that the expelled partner shall be paid on the same basis as a withdrawing partner. Others provide that nothing shall be paid to the partner expelled.

It would seem, in all fairness, that there ought to be a difference between some expulsions and others in connection with what a partner receives. We are aware that a firm agreement which provides that a partner shall receive nothing if expelled does not prohibit the firm from giving equitable treatment to the expelled partner. Two or three of the existing agreements that we have examined say that although he shall have no right to receive anything, the management committee or whoever is making the decision for the firm may nonetheless, as a matter of grace, make payments to the expelled partner on what they consider an equitable basis.

For consideration, we have suggested in our text a treatment different from that in any of the agreements which we have examined. We have provided that a partner expelled for cause receives nothing. If the firm wishes to give him anything as a matter of grace, contrary to an express provision that he shall receive nothing, it may of course do so.

3. Expulsion without Determining any Cause Therefor.

A partner shall be expelled immediately when, on recommendation of the management committee, it is determined by a vote of the partners as provided in Article IV that he

shall be expelled without determination of any cause therefor. This method of expulsion may be employed notwithstanding the fact that grounds may exist for expulsion for cause.

4. Effects of Expulsion without Determining any Cause Therefor.

Upon such expulsion without determining a cause therefor, the partner so expelled shall have no right or interest thereafter in the firm or any of its assets, clientele, files or records, or affairs. He shall have thereafter no further professional duties to the firm or any of its clients and shall be privileged to serve none of them thereafter. He shall immediately remove himself and his personal effects from the firm offices. Except as otherwise provided in this paragraph, a partner so expelled shall be entitled to the same rights, the same payments by, and be subject to the same duties to the continuing firm as if he were then voluntarily withdrawing from the firm.

We are of the view that when a partner finds that those who have the power to vote that he shall be expelled under such a provision as this are so disposed to vote, he would naturally, and may be expected almost invariably to, withdraw from the firm. We are of the view that as to such a partner it will be better, all things considered, for a withdrawal to occur. Moreover, since such a partner, unless it is expressly stipulated otherwise, could withdraw, it seems to us that he should receive the same treatment on being expelled without determination of a cause therefor as he would receive on withdrawal.

We have considered the possibility of adding a provision that a partner who learns that a meeting is to be held at which a vote will be taken whether he shall or shall not be expelled for cause, shall be entitled to withdraw only with the consent of the management committee or the consent of the firm expressed by vote of the partners holding two-thirds of the voting rights. Some firms might want a provision to this effect. Although, according to the provisions of our suggested text, a withdrawal cannot be effected in less than thirty days, in the absence of consent of the firm, this might or might not assure the desired result. For one reason or another the necessary vote for an expulsion for cause might not be obtainable meanwhile. It is our best guess that most firms faced with the very unwelcome choice of paying a partner who has been guilty of an impropriety as if he were a withdrawing partner or holding a vote on expulsion and expelling him for cause, would prefer to make the payments.

Section G. Temporary Incapacity; Leave of Absence; Temporary Withdrawal; Vacations

1. Temporary Incapacity or Illness.

In the event of any interruption of the performance of any partner's services to the firm or to its clients on account of any temporary incapacity or illness, or any other reason not voluntary with him, the management committee may, in its complete discretion, make any arrangements it deems fair to the partner and to the firm, as to the period of his absence and his compensation during that period.

The provisions of this paragraph and other paragraphs of this Section relate to matters commonly within the discretion of firm management. They may well be determined by rules of the office appearing in the office manual rather than in the Articles of Partnership. Most of them seldom appear in the articles, though one, on the subject of vacations, appears frequently. If this is an indication that the other points have not been considered by most firms, our inclusion of such other points, as suggestions, may be justified. We insert them merely to suggest to lawyers the type of such provision that they may want to include, if any.

2. Leave of Absence.

In the event any partner desires an interruption of the performance of his services to the firm or its clients, for any reason voluntary with him, his request shall be submitted to and may be approved by the management committee which, if the interruption shall not be for more than one year, may in its complete discretion make any arrangements it deems fair to the partner and to the firm, as to the period of his absence and his compensation during that period.

Examples of such an interruption include, among others, a six month period in the Armed Forces of the United States, a period of full-time service anticipated to be a year or less in some special governmental, civic, business, or other position, and a period of a year or less for attending some post-graduate legal course or courses. The management committee would be given, by the suggested provision, complete discretion, if it approves the interruption, as to any such leave of absence.

3. Temporary Withdrawal.

If any partner desires an interruption of his services to the firm and its clients for a period longer than the management committee can, or feels that it should, approve under either of the last two paragraphs of this instrument, he may apply

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If any partner desires an interruption of his services to the firm and its clients for a period longer than the management committee can, or feels that it should, approve under either of the last two paragraphs of this instrument, he may apply

of the firm. Such a provision may be all that many firms will want to consider.

A few agreements are rather detailed. For example, some provide that except as otherwise agreed by the managing authority (i) a partner shall not spend more than a specified number of hours of business time each year—for example, two hundred or three hundred hours—in non-compensable efforts on behalf of the organized bar or to civic, educational, religious and charitable activities; or (ii) a partner may spend more than the permitted number of hours of normal business time to such matters without compensation, at his election, provided he devotes to firm employments time beyond the usual business time amounting to at least as much as non-compensable time devoted by him in excess of the permitted hours.

Of course, exceptions by rule or policy of the managing authority for necessary brief illnesses, for vacations, for specified holidays, are routine. Golf or other regular recreational absences are routine in most firms. Other normal absences, subject to restraints imposed by rule or express direction of the managing authority, are routine. We suggest consideration for use of only the first sentence of this Section, leaving the matters covered by the second sentence to management.

Section B. Charging for Professional Services

1. **Each partner shall charge reasonably for all professional services rendered by him, following generally the policies of the firm as to fees charged. However, each partner may serve professionally without charge any member of his own family, any relative, or any client entitled to such legal aid under the canons of professional ethics; and with the consent of the management committee any partner may serve without charge, or at less than regular charge, the organized bar, or any civic, educational, religious, or charitable organization or project.**

Many of the partnership agreements we have examined contain provisions quite similar to the provisions of this subparagraph. We have found none having provisions inconsistent with them.

2. **Each partner will follow rules and policies of the firm adopted in accordance with the provisions of Section A of Article VII of this document relating to consideration by the firm, rather than one partner only, of fees on substantial services rendered by the firm.**

Most of the partnership agreements we have examined are silent on this subject. Those that deal with it, vary widely. Specific provisions in a few which are worthy of consideration for adoption in articles of partnership or as a part of the rules of a firm, include:

(i) "Each partner will submit to the management committee a recommendation of each fee unless, due to some emergency, in the judgment of the partner time does not permit this to be done in advance, in which case he then will promptly report to the management committee every charge made by him."

(ii) "Each partner will consider carefully the suggestions made to him by the management committee as to fees charged by the firm for any client for which he is the responsible partner."

(iii) "Each partner will report to the responsible partner in charge of the billing of any client when he has rendered any services for such a client, on the completion of the same, recommending to the responsible partner what charges for such services seem to him appropriate."

One other provision on this subject deserving of careful consideration, is pertinent to our comments under Section C of Article III and under Section D of Article V. We refer to a provision found in many of the partnership agreements we have examined, which is illustrated by the language of paragraph 6(b) of our draft of agreement in Chapter One on page 19. Such a provision is basic in the eyes of many lawyers and is opposed by other lawyers, especially for firms of established stability and expected continuity. It may be the heart of the partnership agreement where solo practitioners join in organizing a firm and each desires to retain the professional relationship with, and responsibility to, his clients, or at least his prepartnership clients. Each firm should decide for itself whether it wishes to include such a provision in this paragraph 2.

3. No salaries, commissions, fees or gratuities of any substantial significance shall be accepted, directly or indirectly, by any partner personally from any client or prospective client of the firm, unless with the express consent in advance of the management committee, and the fair value of any such item received with such consent, though retained by the partner, shall be treated for accounting purposes as compensation to the firm and shall be charged against such partner as an advance on the next maturing installment or installments of

his drawing account. The management committee may agree, however, to any exception to any provision of this paragraph.

Most partnership agreements we have examined are silent on this subject. Most firms, we guess, treat any problems in this area, as they develop, as matters of firm management. The few that have chosen to add an express provision in their articles of partnership, have chosen a provision generally similar to our text.

Section C. Professional Obligations

1. **At firm expense, each partner will maintain memberships in the American Bar Association, the State Bar of _____ and the Bar of the City of _____.**

Very few of the partnership agreements we have examined contain provisions on this subject. We believe there is a common practice in accordance with the provisions of the Section, and suggest that every firm consider adopting the practice by rule or provision in its Articles of Partnership. Some firms, in addition to bearing membership expense of partners in the organized bar, also reimburse them for their expenses (or such of their expenses as are approved by firm management) incurred in the work of the organized bar. Perhaps some firms will want to name some other organizations in this paragraph, the American Law Institute, The American Judicature Society, the National Legal Aid and Defender Association; yet others should be considered, including perhaps civic and charitable organizations.

2. **At firm expense, each partner will maintain fully effective his license and privilege to practice law in the State of _____ and in the courts and administrative bodies before which he shall have occasion to practice.**

This provision is quite common in the partnership agreements we have examined.

3. **Each partner will at all times comply with all of the provisions of the canons of professional ethics as adopted by the American Bar Association and by the State Bar of _____ and with the statutes, rules and regulations covering all professional services that he shall render.**

This provision is quite common in the partnership agreements we have examined.

Article VII. Management

Section A. Authority and Membership of the Management Committee

1. Subject to the express terms of this document, which as to certain specific matters provides that decisions of the firm shall be determined by the vote of the partners holding required units of participation, the complete and sole management of the firm is hereby vested in the management committee.

2. Any part or parts of the power, right, and authority vested in the management committee may, at any time and from time to time, be delegated by it to a subcommittee of one or more chosen by it. Such authority may be delegated with power in the subcommittee only to recommend to the management committee what action should be taken, or with power to act; in the latter event, action of the subcommittee shall be the action of the management committee. Any delegation may be terminated by the management committee at any time.

3. It may from time to time cause a set of the rules and policies of the firm to be distributed in an office manual to all partners, associated attorneys and employees of the firm.

4. The management committee shall consist of three partners. No one of them shall be retired (though he may be participating in gradual steps toward retirement) or the subject of pending action for expulsion. Partners subject to any of the stated disabilities shall be disqualified from election to or from acting on the management committee. Upon any such event that disqualifies from continued service a member of the committee, he shall automatically cease to be a member of the committee and shall not serve thereafter unless and until (when qualified) re-elected to fill a vacancy on the committee. There shall be an alternate member elected by the partners, and if there is a vacancy on the committee because of death, resignation, or disqualification, the alternate shall become a member of the committee. In the event of any temporary absence of a member, the alternate may serve as a member of the committee during the period of the absence. As soon as convenient the partners shall meet and choose a successor to fill any vacancy (other than a vacancy resulting from a temporary absence of one of the four elected). In

the event of any vacancy not yet filled by vote of the partners, the management committee may on its own account call on any qualified partner of its choice to serve temporarily with the committee. The tenure of one so chosen shall expire when the partners elect a successor.

5. The management committee, from the effective date of this instrument, shall consist of A, C, and E. The named alternate shall be B. Each of the four shall serve respectively until his tenure is terminated by death, resignation, disqualification, or a determination by vote of the partners that his term shall expire.

6. The tenure of every member of the committee and every alternate member shall be subject to termination without cause, by requisite vote of the partners in accordance with the provisions of Article IV of this document.

Section B. Functioning of the Management Committee and its Subcommittees

1. Members of the management committee shall make every reasonable effort to keep each other and the alternate advised of all pending problems, prospective decisions, and actions taken. Action of the committee shall be by majority vote. It shall not be necessary that any notice be given of the time or place of decision or of the matter to be decided. Any decision of the committee may be reversed prospectively by any subsequent action of the committee.

2. Though the committee has no obligation so to do, it may refer any matter on which all members of the committee are not in agreement to a meeting of the partners for decision.

Section C. Membership in Subcommittees of the Management Committee

The management committee shall decide what subcommittees there shall be from time to time, how many members (one or more) there shall be of each subcommittee, who the members shall be, and what the subcommittee's functions and authority shall be. The management committee may at any time modify or revise prospectively any authorized decision of any subcommittee. Any partner or any full time employee may be a member of any subcommittee.

There are provisions for management of the firm in most of the existing agreements that have been submitted to us. In most of

those prepared apparently for firm of less than five or so partners, management decisions are frequently vested largely in one partner or some matters in one partner and others in another partner. In many such instruments where there are only a few partners management decisions are made from day to day as three named partners by majority action may determine. Since there are periods of necessary absence of any partner, many that can be foreseen, as for example vacations and long court engagements, and many that cannot be foreseen, we have suggested (page 20), especially for a small firm, consideration of a simple provision for management to be vested in three, acting at all times by majority vote. This seems preferable to vesting management in one individual or dividing management among two or three partners, each being authorized to act alone in his assigned field. In our language suggested for consideration in this article, much longer than the comparable provisions of the partnership agreement in Chapter One, we have presented for consideration explicit provisions generally similar to provisions in articles of partnership in many larger firms. Some less detailed provisions may be preferred.

In larger firms, we understand, it is often a continuing policy that the work of the management committee shall be divided by it by assignment of various of its functions to subcommittees chosen by it from time to time, with the purpose of assigning to every partner who can reasonably carry the same, a substantial share of responsibility for the affairs of the firm. The interests and aptitudes of partners of course should be considered. These assignments of work may often be made to a subcommittee composed of a partner and one or two associates who will gain experience by doing the work. Occasionally some bookkeeper, secretary or other non-lawyer employee will be of great value. Illustrations of subcommittees that function in various firms, are: on Library; on Leasehold Improvements, Furniture and Equipment; on Secretarial and Stenographic Assistance; on Firm Books of Account and Taxes; on Files; on Preserving and Indexing Firm Briefs and Forms; etc.

A small managing committee of three, or sometimes of five, seems to be the highly favored procedure in effect in many of the largest firms whose agreements have been submitted to us. "Management committee," "executive committee," the "senior partners," and "administrative committee" are names frequently used. Concentration of power is accomplished in some firms by placement of all voting rights in a small group. Placing management in such a small group is far more usual.

In some of the agreements we have examined there are provisions for a second management group to do some specific things. For example, there may be a "policy committee," which will study some procedures and policies and make recommendations to the management or to the partners or both; or a "board of review," which may have the sole function of analyzing the effectiveness and quality of the work done by every attorney in the office and of bringing to the partners directly recommendations for changes in their rates of compensation, and for any promotions or reductions in responsibility. We find that such provisions are unusual and that generally all management problems, including problems such as these, are left to a single management group. This seems preferable since such problems are interrelated with many other problems.

Two other alternatives, each adopted in many firms, are (i) that the authority vested in any committee is subject to approval by the partners or (ii) that any decision by a committee is subject to reversal prospectively by the partners. Where, as in our draft, a majority vote of the partners can replace at any time, with or without cause, all or any of the members of a committee, it seems reasonable to assume that the committee actions generally will conform to the wishes of the partners holding a majority vote.

There is doubtless a strong tendency, as reflected in numerous of the existing agreements submitted to us for consideration, for the three partners having the largest participation in the distribution of net income of the firm to be the ones who will have the final say on firm decisions and, hence, who will serve as members of such a management committee. To emphasize a point, we have named as the management committee of our hypothetical firm, three partners, A, C, and E, omitting B, a partner assumed to be senior in age and experience, as well as participation. B may prefer not to undertake so arduous a task, or may be persuaded by his partners that, for reasons of temperament or other reasons, another should serve. Some excellent lawyers, of course, are simply not good managers and should not be chosen to make management decisions.

Of course there is a clear advantage to the firm, if it has one young man especially talented for such service, in putting him to work on the management committee at an early age. Such a man is our hypothetical E. If the firm does not know of one younger partner thus qualified, it will be of clear advantage to the firm to try out various younger partners in such service. As the

firm grows in size and volume of daily problems, the wise choice of a management committee, the wise delegation to it of the responsibility for deciding nearly every matter and the wise delegation by the committee of authority with respect to detailed operating problems, seem essential to good management.

Article VIII. Insurance; Investments

Section A. Life Insurance

The management committee in its discretion shall determine from time to time what life insurance, if any, shall be carried on the lives of partners for benefit of the firm.

Most partnership agreements we have examined are silent on the subject of life insurance. A few agreements are quite detailed in their provisions on the subject. Understanding that the practice is common for all the partners, or some of them, to enter into a separate life insurance agreement not incorporated in the Articles of Partnership, we considered requesting the opportunity of examining such forms as are currently in use. We decided against this because adequate treatment of the subject would lengthen the pamphlet unreasonably.

We have suggested language in this section that is unnecessary, in our opinion, if the management committee is to be given the broad management powers set forth in Article VII, Section A. But, if not thus covered clearly in powers of firm management, expressly or implicitly, this provision should be considered.

We are convinced that the time may come when many firms will want insurance on the lives of one or more or all of the partners. Whether that insurance should be carried by the firm for its benefit, or by the individual partners or some of them for their own benefit, are problems we do not discuss in this pamphlet. Each firm or group of partners may consider a life insurance program, tailored for particular purposes, and should then see that all reasonable alternatives to that program are carefully considered before it is adopted.

The possibilities of group life insurance and of wholesale life insurance in individual law firms with large enough personnel to qualify, are intriguing and should be carefully considered.

We suggest consideration by every firm of a life insurance program; and if not otherwise provided for, at least a special policy that may be quite inexpensive, insuring against the death of two or more partners at about the same time.

Section B. Other Insurance

The management committee in its discretion shall determine from time to time what other insurance, if any, the firm shall carry.

Firms carry many kinds of insurance; professional liability, public liability, workmen's compensation, fire, theft, etc. Very few partnership agreements we have seen refer to this subject. If broad management powers are granted, as in Section A of Article VII of our text, this section seems unnecessary. The practices of the firm as to insurance coverage other than life insurance are often outlined in an office manual.

Section C. Investments

The management committee in its discretion shall determine from time to time what investments, if any, the firm shall make and all matters with reference to the proceeds of such investments, and with reference to reinvestments or changes in investment policies.

A few partnership agreements we have examined contain lengthy and detailed provisions on this subject. Almost all of them, however, are silent on the subject, except for a reference such as that in Section C of Article III of our draft of Articles, in which we authorize the management committee in its discretion to set up other reserves, in addition to a bonus reserve.

A great many firms, apparently, under some such general authorization, maintain a small contingency reserve as a safety factor, and invest and reinvest the funds in that reserve. But a few firms apparently set aside sums, as capital investments, and withhold some part of the net income from distribution and add to this sum from time to time for the primary purpose of investing and reinvesting such funds. It seems to be thought that this joint investment adds fiscal stature to the firm and may be of use in tying the firm more closely into the management of some of its key clients. When fees are received in kind rather than in cash, they are sometimes simply taken into the "investment fund" rather than being sold for distribution of cash proceeds among the partners, or being distributed in kind for partners to hold or sell, as they severally elect.

If a firm builds up a substantial investment account, the presence of substantially appreciated or depreciated securities or real estate will necessitate a consideration of tax and other problems in connection with the entry of a new partner or upon re-

tirement or death of a partner which are absent or not substantial where, as is usually the case, the property accounts of the partnership reflect approximately the true value of the assets.

Most firms do not follow the practice of building up a substantial investment account. The principal reasons no doubt are (1) the partners are taxed on the partnership earnings whether distributed or not and thus will want in cash or property as much of the net profits of each year as can reasonably be distributed, and (2) there is a general feeling that a law firm should be organized solely to practice law and not to enter into other business enterprises, no matter how inviting.

Article IX. Properties and Records

The management committee in its discretion shall make all decisions of the firm from time to time on the following subjects:

Section A. Firm Properties

Where the Articles contain a general provision such as that in Article VII, Section A (page 86), we feel that there is no need to include a provision on the subject of this Section A, or on the subjects covered by any of the other Sections of this Article IX. Most of the partnership agreements we have examined contain no such specific provisions, but rely instead on an express general provision or on the necessary implication of a general provision concerning firm management.

A few of the firms in their Articles limit the authority of the management committee or its equivalent with respect to properties. Examples:

(i) Require that the purchase of all properties, except supplies, be approved by partnership vote; or

(ii) Require such a vote for purchase of properties costing more than a specific amount; or

(iii) Require such a vote for purchase of an office site or office building; or any property not deemed necessary to the practice of law; or

(iv) Limit the amount to be spent in a year, without a partnership vote, for replacements, repairs or upkeep.

Any firm contemplating such limitations on its management may decide for itself on what they shall be and whether they need to be in its Articles, rather than in its rules or policies.

Section B. Accounting Records

Many firms have express provisions in their partnership agreements covering one or more of the following points on this subject.

(i) Specifically requiring that the books of account be kept on a cash basis;

(ii) Specifically defining the fiscal year of the firm;

(iii) Specifically defining what financial statements shall be prepared with copies given to each partner;

(iv) Specifically requiring that partnership income tax returns be prepared and filed regularly and a copy of the same given to each partner a specific period, say at least one week, before each return is filed, and a specific period, say at least two weeks, before his personal return is due;

(v) Specifically requiring that all accounting records of the firm shall be open to inspection by each partner at any time during business hours;

(vi) Specifically requiring that the financial records of the firm shall be retained for an agreed period and shall be available for inspection or copying by anyone who was a partner at the time that such records were prepared, including one who at the time of the inspection is a former partner.

Each firm contemplating provisions on this subject should decide for itself what, if any, of these provisions it wants in its Articles rather than in its rules or policies. Provisions as to cash basis and fiscal year are found in many agreements we have examined.

Section C. Cost Accounting Records

We have noted provisions on such records, in addition to those records referred to in Section B immediately preceding, in only four of the partnership agreements we have examined. Whatever may be the decision as to the inclusion of a provision for cost accounting in the partnership agreement, the importance of cost accounting to law firms seems to us to be so widely overlooked that we wish to urge a careful consideration of the subject upon every firm. A law firm cannot know without some system of analyzing the comparative costs involved, what it is accomplishing financially, or how fairly it is charging clients. Analyses of fees charged the same client for different types of service; of fees charged various clients in the same type of business; of differences in fees paid by those in various types of business;

and of the differences in fees charged by different lawyers in the firm for similar services (especially if this is not watched from day to day by the management committee or some subcommittee) may be of great value.

Cost accounting can tend to eliminate inequities in charges and may often prevent a firm from unwittingly giving away its services at or below its actual cost. There are many discussions of procedures available for such analyses. We do not consider it appropriate to detail them here.

Section D. Files

While it does not seem to us necessary to have any provision on this subject in its Articles of Partnership, many firms do have such provisions. Illustrative provisions we have found include:

(i) A provision that wherever feasible all documents of the client shall be returned to the client at the conclusion of every employment;

(ii) A provision that the files of the firm shall contain (unless and until microfilmed or destroyed) copies of all correspondence of the firm, copies of all pleadings and other documents prepared by it and copies of prior drafts if the one preparing the document considers the differences between the prior draft and the final document worth preserving;

(iii) A provision that all files relating to current employments of the firm shall be maintained under rules and procedures approved by management in its discretion; and when relating to a matter that has been concluded, that they shall be placed in storage and retained for a period of not less than a definite number of years;

(iv) A provision that a withdrawing partner shall be permitted to withdraw from the current files and the files in storage, files relating solely to services for his client or clients; and that except for such a withdrawal there shall be no withdrawal of files current or in storage, except for use on a temporary day to day basis with an obligation to return same intact so soon as such use has terminated;

(v) A provision that lists of all files that are in storage and those that have been meanwhile destroyed shall be maintained for at least a minimum period, say double the period referred to in (iii).

(vi) Specific provisions as to procedures for destruction of files; for example, that a separate list of files proposed for destruction shall be prepared and submitted to every partner and former partner who is entitled to continued use of such files; that destruction shall follow only when instructed by management, after the expiration of thirty days following the distribution of such lists; that within that thirty-day period each partner and former partner may request permission to retain such file or files as he may wish, either in the general files in storage or separately and personally, if the retention of general files is not approved by the management committee; and that the management committee may in its discretion turn over any such files to such a partner or former partner personally for retention as his own as long as he may wish, and shall do so unless the file is retained in general storage.

(The term "former partner" as used in this paragraph and succeeding paragraphs of our comments under this Section is intended by us to describe all those previously partners of the firm excepting expelled partners, who would have none of the rights given "former partners.")

(vii) A provision that all partners and associates of the firm and all former partners shall have (consistent with the use of such files by others entitled to such use) free and ready use of all and any of the files of the firm, as an aid to their rendition of services to the same or other clients from time to time.

Many firms have specific rules containing provisions such as these that we have outlined; many of them copy their rules in their office manuals. Some of these provisions may be of far greater importance to partners of some firms than others. A firm for its own reasons may place some of these provisions in its Articles of Partnership, leaving others to rules or policies of the firm more readily changed from time to time. For example, provisions authorizing use of files by "former partners" are, we assume, consistent with practices usually followed by many or most law firms. But we suppose that this is usually left to the discretion of the continuing firm so that it may, if it so elects, refuse consent without any reason. Whether those considering Articles of Partnership for their law firm wish to adopt such provisions about rights of "former partners" and, if so, whether they want such provisions in their Articles of Partnership, are matters that should be carefully considered.

Section E. Briefs and Memoranda; Office Forms

Provisions as to such matters seem to us generally to have no place in partnership agreements and such provisions are included in almost none of the agreements we have examined. In two of the partnership agreements we have examined, we have found provisions as to the rights of former partners in connection with the use of such papers. This is a subject to which some consideration should be given in the drafting of Articles of Partnership. It may be that most persons will feel that this is a matter which should be covered by the firm's rules and policies which can be changed at any time without the consent of the former partner. The decision made on the subject of the rights, if any, of a former partner to use of files, may be considered applicable to his rights, if any, to use of indexed briefs, legal memoranda and office forms.

It is most important, however, that proper rules and policies as to the preservation, filing, and indexing of such papers be established. A carefully indexed series of printed briefs, legal memoranda, and legal forms growing from year to year can be of inestimable value to a law firm.

Article X. Termination and Liquidation of Firm

Section A. Termination of the Firm by Voluntary Vote or Otherwise

The partnership may be terminated at any time by affirmative vote of the partners at a partnership meeting, in accordance with the provisions of Article IV of this document.

Section B. Pending Employments on Termination

In the event of termination of the partnership, no further professional services shall be rendered in the partnership name and no further business transacted for the partnership except action necessary for the winding up of its affairs, the distribution or liquidation of its assets, and the distribution of the proceeds of the liquidation. Maintenance of offices to effectuate or facilitate the winding up of the partnership affairs shall not be construed to involve a continuation of the partnership. In advance of the effective date of the termination of the partnership the management committee shall assign every uncompleted professional service to one or another of the partners on such terms as shall be agreeable to the clients involved and the partners to whom such matters are assigned; and the rendition of professional

services from the effective date of the termination shall henceforth be by such individuals and other law firms, if any, in which they may respectively become partners.

Section C. Liquidation of Assets

The members of the management committee (but not including alternate members) on the effective date of the termination of the partnership, shall be the agents of the terminated partnership in liquidation, and of the individual partners, for winding up all its affairs and all business transactions of the partnership, other than the performance of incomplete professional services referred to in Section B above. Said members of the management committee shall continue to serve (unless death, incapacity, or resignation shall intervene) until the completion of the winding up and liquidation. The committee shall act by majority vote or votes. In the event of any temporary or permanent vacancy in the committee, the remaining members shall choose a third member of the committee. Members of the management committee shall not be paid for their services after the termination of the partnership in the winding up or liquidation operations. They may, out of the assets and proceeds of the assets on hand, employ such assistants as they determine appropriate, and the committee may so employ and pay any one of its members to take any such actions and render any such services in the winding up and liquidation.

Section D. Prior Opportunity of Partners to Bid for Purchase of Assets Being Liquidated

The partners holding units of participation immediately prior to the termination of the partnership may, in the discretion of the management committee, be given first opportunity over any other prospective bidder for the purchase of any of the assets, all such partners being given an equal opportunity, so that they respectively as individuals or jointly or in groups, may bid; and if the best bid by any of them, in the opinion of the management committee, is at least ninety-five per cent of the highest and best bid otherwise received, then such best bid by any partner or partners may be accepted.

Section E. Distribution of Proceeds from Liquidation

The business affairs of the partnership, in the event of the termination of the partnership, shall be wound up and liquidated as promptly as business circumstances and orderly business practices will permit. After payment of expenses incurred, the net

assets and the proceeds of the liquidation shall be applied in the following order:

1. **To the payment of the debts and liabilities of the partnership owing to the creditors other than partners, and the expenses of liquidation.**

2. **To the payment of the debts and liabilities owing to the partners other than for (i) capital, (ii) profits and (iii) any unmatured installments yet to be paid on account of the death, permanent disability, retirement (or death following retirement) or withdrawal of a partner. It is agreed that all sums to become due on installments referred to in (iii) shall be assumed ratably by each partner at the date of termination and that each shall thereafter pay his ratable share of each such installment as it becomes due.**

3. **To the repayment to each of the partners of his capital contributions to the firm.**

4. **To the payment to partners (computed on the basis of their respective units of participation at the date of termination of the firm) of all the remaining net of assets and proceeds, if any, first in whatever amounts are necessary to complete a ratable distribution for the current year, to each partner to the full extent of distributions previously received by each other partner; and second, to ratable distributions to all partners.**

5. **If the assets and proceeds of the liquidation are insufficient to pay all of the items referred to in paragraphs 1 and 2, but not including (i), (ii) and (iii) referred to in 2, then the management committee shall make an assessment against the partners to cover net losses of the firm and such assessments shall be paid and applied to the satisfaction of the items covered by paragraphs 1 and 2.**

Provisions for dissolution and liquidation, with authorization for an individual or a small committee to act for all at that time, are common in the partnership agreements submitted to us. The provisions that we are suggesting for consideration are more detailed than those found in most of those instruments. These suggested paragraphs include provisions commonly inserted in articles of partnerships for businessmen entering into the conduct of a business.

Article XI. Legal Effect of the Provisions; Arbitration

Section A. Law of State of _____ Controlling

All provisions of this document shall be construed, shall be given effect and shall be enforced according to the laws of the State of _____.

Section B. Those Bound by Provisions

Each of the partners executes this document with the understanding and agreement that each has hereby bound and obligated himself, his estate, and any and all claiming by, through, or under him.

Section C. Rights of Partners Not Assignable; Not to be Pledged

No partner and no one acting by authority of or for a partner may pledge, hypothecate, or in any manner transfer his interest in the partnership, or his interest in any of its assets, receivables, records, documents, files, or clientele, all such rights and interests of each partner being personal to him and non-transferable and non-assignable (except that other partners of the firm may succeed to such rights or some of them in accordance with the terms of this document).

Section D. Finality of Decisions Within the Firm; Effect of Diverse or Adverse Interest Personally of any Partner

Every final decision of the firm on any matter affecting any party hereto or anyone claiming by, through or under any party, by vote of the partners or by decision of the management committee, when in accordance with the terms and provisions of this document, shall be binding and conclusive. Except where it is expressly provided in this document that one shall not be permitted to vote as to any such decision, there shall be no disqualification of anyone from voting who shall be entitled to vote according to the terms and provisions of this document, notwithstanding any adverse or divergent interest that he may personally have in the decision; and the decision shall, nevertheless, be binding and final notwithstanding any such adverse or divergent interest held by anyone so voting. It is understood that individual partners and that members of the management committee will doubtless have divergent and may have adverse, or arguably adverse, personal interests from one another on some

matters that are to be determined according to the provisions of this document and have diverse or adverse interests personally from those of some party affected by the decision; all this is agreed to and waived as a disqualification. Nonetheless, anyone entitled to such a vote on any such matter may recuse himself from voting and thereupon the decision shall be made on the computation of votes to the same effect as if the one so recusing himself had as to that matter, no right to vote; and if the vote is by the partners, as if he held no units of participation. Each party having any vote on any such matters shall recuse himself on any vote if requested so to do by joint action of partners holding a majority of the units of participation then outstanding.

The extent to which anyone may be disqualified by his own divergent or adverse personal interest from deciding any controversial issue affecting the rights, titles or interests of other parties, seems not to be clearly defined by court decisions in all states. Even where a diverse though not an adverse interest is definitely known and mentioned in the agreement pursuant to the terms of which the power to make the decision is to be exercised, and such an outstanding divergent interest is expressly waived, there may be a few situations where, as a matter of law in some states certainly, one partner may, nonetheless, be disqualified from casting a vote that might be a decisive vote.

It is to be assumed that if anyone senses his own adverse personal interest in an issue, he will recuse himself and let others in the firm decide the issue. It is to be assumed that if his partners realize the disqualification of one and his failure to recuse himself, they might readily find several ways to prevent the decision in fact becoming his. The additional provision to the effect that a partner shall recuse himself when requested so to do by those partners having a majority-in-interest in the firm, would seem unnecessary to us and would doubtless be omitted from many agreements.

In almost all situations it is therefore assumed that all matters that might develop into an issue under the terms of this document may be expected to be decided finally within the firm, with or without the addition of this Section. Though we have noted the equivalent of provisions such as in this Section in numerous legal documents, we have not found its equivalent in any of the law partnership agreements we have examined.

Section E. Arbitration

Any controversy or claim arising out of or relating to any provision of this document or the breach thereof, shall be settled by arbitration in accordance with the rules then in effect of the American Arbitration Association, to the extent consistent with the laws of the State of _____. It is agreed that any party to any award rendered in any such arbitration proceedings may seek a judgment upon the award and that judgment may be entered thereon by any court having jurisdiction.

To the extent that issues and controversies are finally determined within the firm, there will be no remaining controversies or issues to resolve by arbitration or litigation. By virtue of the broad terms and provisions of this Section, however, there would be submitted to arbitration rather than litigation any remaining issues and any contentions that issues as finally determined within the firm are or are not conclusively determined.

Provisions for arbitration of disputes appear frequently in the partnership agreements we have examined. The language of this Section E is in the form known as the American General Commercial Clause, used in many contracts. The reference to the rules of the American Arbitration Association is deemed highly desirable, unless the parties wish to attempt to specify in advance their own set of rules or some other set of rules.[9] The rules of the American Arbitration Association have been so adopted in a very large number of commercial contracts for many years and are equally applicable to controversies arising under this document.

The laws of the several states are not consistent on the question whether an agreement to arbitrate a dispute to arise after the effective date of the agreement, is enforceable. The law of the state referred to in Section A of this Article XI, should be considered on this point. Even if it is well established under the law of that state that an agreement to arbitrate disputes to arise in the future is not enforceable, the provisions of this Section E may be desired, nonetheless, in the expectation that when and if such a dispute in the future does arise, all parties at interest will adopt the agreed procedure, although they could not be compelled to do so.

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[9] A copy of these rules may be obtained from American Arbitration Association, 477 Madison Avenue, New York 22, New York, or from any of its regional offices throughout the United States.

We assume that on most arbitrations lawyers never connected with the firm and in whom all parties to the controversy will have confidence, will be chosen as arbitrators; and that they will be able expeditiously and economically to make final decisions.

Section F. Severability

It is agreed that the invalidity or unenforceability of any Article, Section, paragraph or provision of this document shall not affect the validity or enforceability of any one or more of the other Articles, Sections, paragraphs or provisions; and that the parties hereto will execute any further instruments or perform any acts which are or may be necessary to effectuate all and each of the terms and provisions of this document.

We suggest consideration of this provision by every firm that adopts in its Articles any provision which under the laws and decisions of its state may be or become of doubtful validity or enforceability.

Article XII. Amendments

An amendment hereto may alter, revise, delete or add to any provision or provisions of this agreement. No amendment to this instrument shall be adopted or become effective unless and until it (i) has been voted in accordance with the provisions of paragraph 3 of Section B of Article IV of this document; and (ii) has been executed and attached to this document as a part of same.

Most of the partnership agreements we have examined contain provisions as to amendments. Provisions in such agreements vary. In many of such agreements unanimous agreement of all partners is required for any amendment. These, presumably, are for the most part agreements of smaller firms. Provisions such as those that we suggest—a two-thirds vote for any amendment—are quite common.

†

OPTIONAL FORM NO. 10

UNITED STATES G[redacted]NT

Memorandum

Tolson
Belmont
Mohr
Callahan
Conrad
DeLoach
Evans
Malone
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Holmes
Gandy

TO : Mr. Mohr

DATE: 3/5/62

b6
b7C

FROM : J. F. Malone

SUBJECT: AMERICAN BAR ASSOCIATION (ABA)
ANNUAL MEETING
SAN FRANCISCO, CALIFORNIA
8/3-12/62

The above-captioned meeting to be held in San Francisco is the most important meeting throughout the entire year for the ABA. At this meeting there will be numerous meetings of all the sections, including the Criminal Law and Family Law Sections in which we have a definite interest. There will also be meetings of all standing and special committees, including a program to be put on by the Special Committee on Communist Tactics, Strategy and Objectives.

ABA staff members have advised that registration to date for this meeting indicates that this will be one of the largest meetings held in several years, and it is expected to be one of their busiest meetings.

To adequately represent the Bureau and to protect its interest, it will be necessary to have complete coverage of not only meetings of key sections and committees, but also of the Assembly and House of Delegates which will also be in session during this annual meeting. Since many of the meetings of sections and committees will be closed to the public and membership in those sections and committees will be a necessary prerequisite to attendance, it will necessitate the coverage of this meeting by both Inspector H. L. Edwards and SA Supervisor [redacted] Past experience in these annual meetings has been that it has always taken both the primary and alternate liaison representatives to obtain adequate coverage. The request for approval of attendance of both Edwards [redacted] at this meeting is being made at this time to facilitate their registration and to obtain hotel reservations.

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b7C

RECOMMENDATION:

That Inspector H. L. Edwards and SA Supervisor [redacted] be approved to attend the ABA annual meeting at San Francisco, August 3-12, 1962.

REC-37 94-1-369-1701

1 - Mr. Callahan
1 - Mr. DeLoach
1 - Mr. Edwards

TDW:eim (5)

57 MAR 19 1962

8 MAR 13 1962

3-13-62

PLAIN TEXT

TELEGRAM

URGENT

FEDERAL BUREAU OF INVESTIGATION
U. S. DEPARTMENT OF JUSTICE
COMMUNICATIONS SECTION
MAR 14 1962
WESTERN UNION

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[redacted]

ATTORNEYS
WILSON TOWER
CORPUS CHRISTI, TEXAS

HONORABLE JOHN C. SATTERFIELD HAS REQUESTED FBI SPEAKER FOR YOUR APRIL TWENTY ONE AMERICAN BAR ASSOCIATION SEMINAR IN CORPUS CHRISTI AND ASKED THAT YOU BE ADVISED. I REGRET WE HAVE NO ONE AVAILABLE TO SPEAK ON COMMUNISM DURING THAT PERIOD DUE TO PRIOR COMMITMENTS. I AM SORRY THIS SITUATION EXISTS AS I WOULD LIKE TO BE OF HELP.

JOHN EDGAR HOOVER, DIRECTOR
FEDERAL BUREAU OF INVESTIGATION

ELC:TMF
(9)

INITIALED
DIRECTOR'S OFFICE

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NOTE: Jones to DeLoach memo of 3-13-62 captioned "American Bar Association, Anticommunist Seminars, Committee on Communist Strategy and Tactics, Corpus Christi, Texas, April 21, 1962." ELC:tmf

1 - Mr. DeLoach (sent with cover memo)
1 - Mr. Belmont (sent with cover memo)
1 - Mr. Sullivan (sent with cover memo)
1 - Mr. Edwards (sent with cover memo)

94-1-369-1702

REC-53

19 MAR 14 1962

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[redacted] b6 b7C

ATTORNEYS WILSON TOWER

CORPUS CHRISTI TEXAS

HONORABLE JOHN C SATTERFIELD HAS REQUESTED FBI SPEAKER FOR YOUR APRIL TWENTY ONE AMERICAN BAR ASSOCIATION SEMINAR IN CORPUS CHRISTI AND ASKED THAT YOU BE ADVISED. I REGRET WE HAVE NO ONE AVAILABLE TO SPEAK ON COMMUNISM DURING THAT PERIOD DUE TO PRIOR COMMITMENTS. I AM SORRY THIS SITUATION EXISTS AS I WOULD LIKE TO BE OF HELP.

JOHN EDGAR HOOVER, DIRECTOR

FEDERAL BUREAU OF INVESTIGATION.

March 8, 1962

EX 101
REC- 24 [illegible]-4793

Mr. Richard Bentley
Editor-in-Chief
American Bar Association
Journal
1155 East 60th Street
Chicago 37, Illinois

Dear Mr. Bentley:

I have received your letter of February 27, with enclosures, dealing with your exchange of correspondence with [redacted] of Danville, Illinois. I was interested in receiving this material and I do want you to know how much I appreciate your thoughtfulness in sending it to me.

Sincerely yours,

J. Edgar Hoover

b6
b7C

MAR 8 3 49 PM '62
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MAILED 5
MAR 8 - 1962
COMM-FBI

NOTE: From the copy of [redacted] letter of February 22, to Mr. Bentley, it is obvious he is a member of the extreme right-wing and his position is that "even misguided patriots have a right to 'freedom of speech'" Bufiles reveal that [redacted] was the attorney of [redacted] of Louisville, Illinois. [redacted] a wealthy fanatical self styled religious leader and anticommunist, refused to surrender a deserter, [redacted] to Bureau Agents in August 1961. On 8-4-61, [redacted] and 16 of his followers were arrested and a large quantity of firearms and ammunition was confiscated by Bureau Agents. [redacted] protested the FBI's arrest in his letter of 8-28-61 to Senator Dirksen and requested assistance to recover damages allegedly sustained by [redacted] By letter of 9-6-61 to Senator Dirksen the Director furnished the true facts of the harboring case to Dirksen. Mr. Bentley is on the Special Correspondents' List

JMM:bch
(4)

Tolson
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AMERICAN BAR ASSOCIATION JOURNAL
1155 EAST 60TH STREET ○ HYde Park 3-0533 ○ CHICAGO 37, ILLINOIS

Mr. Tolson
Mr. Belmont
Mr. Mohr
Mr. Callahan
Mr. Conrad
Mr. DeLoach
Mr. Evans
Mr. Malone
Mr. Rosen
Mr. Sullivan
Mr. Tavel
Mr. Trotter
Tele. Room
Mr. Ingram
Miss Gandy

27 February 1962

Dear Mr. Hoover:

Further with regard to your fine article which appeared in our February issue, and our editorial relating to it, we thought you would be interested in the enclosed copy of a letter received by us from [redacted] General Counsel, Anti-Communist League of America, Inc.

b6
b7C

We also send you herewith a copy of our reply to [redacted]

We thought you would be interested in this exchange of correspondence.

Sincerely yours,

RB:mlb
enclosures

Richard Bentley
Editor-in-Chief

Hon. J. Edgar Hoover
Federal Bureau of Investigation
Department of Justice
Washington, D. C.

94-1-369-1863

REC- 24

EX 101

17 MAR 15 1962

EXP. PROC.

MAR 5 1962

Ltr to Bentley 3/8/62

LAW OFFICES OF
ROGER. LITAK & GROPPI
ELEVENTH FLOOR · McNULLEN BUILDING
4 NORTH VERMILION STREET
DANVILLE, ILLINOIS

TELEPHONE
442-0473

b6
b7C

February 22, 1962

Mr. Richard Bentley
Editor in Chief
American Bar Association Journal
1155 East 60th Street
Chicago 37, Illinois

Dear Mr. Bentley:

It seems to be the fashion nowadays to foster the idea that the real enemies of our republic are not those who wittingly or unwittingly further the communist conspiracy, but those who protest such action. This position has found some support in the recent address of our President in Los Angeles, where he characterizes such protesters as "extremists". As a long time member of the American Bar Association, I was shocked to now find our Journal (February 1962 issue, Communist Objectives) editorially taking much the same stand.

For an example of fuzzy thinking, one would have to go far to top this: "The characterization of others as subversive .... contributes materially to the communist objective of destroying our democratic institutions." Followed by, " .... honest divergence of views .... is the hallmark of our democracy". Would you suppress the right of one citizen to honestly doubt the loyalty of another? Are those holding such "extremist" views to be shamed, brow-beaten, discouraged and coerced into abandoning their concern for the welfare of our beloved nation? And if this be accomplished, which do you think would be benefitted: freedom or communism!

You purport to base your views on the article in the same issue by J. Edgar Hoover, director of the F.B.I., but a careful reading of that article with a regard to its' necessary implications shows a proper appraisement of communist tactics and objectives which the editorial ignores. For instance, he emphasizes how even noncommunists are enlisted in the Communist "campaign of vilification of our judicial processes".

As lawyers we should be especially vigilant in refusing to take part in any such campaign. We should consistently take the position that our constitutions, laws and courts are adequate to protect the rights of our citizens, and we should foster and encourage the use of such facilities to avenge or rectify private wrongs.

Applying these principles to the problem at hand, it should be the position of the American Bar Association that even mis-guided patriots have a right to "freedom of speech", subject to legal safeguards for the abuse of such right.

94-1-364 - 1963

ENCLOSURE

To charge someone with being a Communist or sympathizer has been held actionable per se: Spanel v. Pegler, 160 F.2d 619; Maric v. Vukotich, 178 F. Supp. 727; and Dilling v. Illinois Pub. & Printing Co., 340 Ill. App. 303, 91 N.E.2d 635 (to cite just some Illinois cases on the subject). The court, therefore, offer a forum and a remedy for those wrongfully accused.

In the olden days of the common law, the failure to deny a charged offense carried implications of guilt. Failure to legally protect ones "good name" from a so-called false charge of disloyalty should carry a comparable connotation. In any event, the bar should stand for the proposition that such controversies should not be settled through extra-legal name-calling. I regret that I do not understand your editorial as supporting this view.

Yours very truly,

b6
b7C

General Counsel, Anti-Communist League of America, Inc.

Danville, Va.

AMERICAN BAR ASSOCIATION JOURNAL
1155 EAST 60TH STREET ○ HYde Park 3-0533 ○ CHICAGO 37, ILLINOIS

27 February 1962

[redacted] Esq.
General Counsel
Anti-Communist League of America, Inc.
4 North Vermilion Street
Danville, Illinois

b6
b7C

Dear [redacted]

Your letter of 22 February has reached me, and I note you express yourself as "shocked" at our Journal editorial "Communist Objectives" in the February 1962 issue, in which we expressed ourselves as in sympathy with the position taken by Mr. J. Edgar Hoover in his article which appeared as the leading article in that issue of the Journal.

The press in general seems to have interpreted Mr. Hoover's article as we did, (The New York Times, 16 February 1962, Chicago Daily News, 19 February 1962, etc.)

Furthermore, Mr. Hoover has written us expressing his appreciation of our comments on his article. We are, therefore, under the impression, we hope justifiably, that our editorial met with his approval. We regret that it did not meet with yours.

We are taking the liberty of sending a copy of your letter, together with a copy of this reply, to Mr. Hoover.

Yours very truly,

RB:mlb

Richard Bentley
Editor-in-Chief

cc Hon. J. Edgar Hoover

1303

OPTIONAL FORM NO. 10

UNITED STATES GOVERNMENT

Memorandum

Tolson
Belmont
Mohr
Callahan
Conrad
DeLoach
Evans
Malone
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Holmes
Gandy

TO : MR. MALONE

DATE: March 5, 1962

FROM : MR. H. L. EDWARDS

SUBJECT: INVITATION TO DIRECTOR TO SPEAK AT 1962 ANNUAL AMERICAN BAR ASSOCIATION MEETING, AUGUST 6 - 10, 1962 SAN FRANCISCO, CALIFORNIA

This morning (3/5/62) I had breakfast with ABA President John Satterfield, who is in town for the day. He told me he is anxious to extend an invitation to the Director to make a major speech at the forthcoming 1962 Annual American Bar Association meeting. Satterfield said that he had wanted to personally talk with the Director to extend this invitation, but he finds he must go to Philadelphia later today. Therefore, he said that he was going to try to telephone the Director sometime today. He hoped the Director would understand that by telephoning him he was not minimizing the importance of the invitation because he said that if it were not for the fact that he wants to extend the invitation without further delay he would try to get an appointment with the Director when next in Washington. I told him that I was certain the Director would understand.

Satterfield indicated that he is also hoping to have President Eisenhower and President Kennedy as speakers during the annual meeting. He said that the speech which he hoped the Director would make would be at one of the large assembly meetings which are held during the morning. He said if the Director chose he could elect to be the annual banquet speaker, but Satterfield feels, and I agree, that the assembly meeting would be the preferable one.

ACTION:

For information in view of the fact that Satterfield will undoubtedly try to call the Director later today.

HLE:wmj (4)
1 - Mr. DeLoach
1 - Miss Holmes

94-1-369-1704

REC-116

11 MAR 9 1962

CRIMINAL RECORDS

NOTED

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Mohr

DATE: March 5, 1962

FROM : C. D. DeLoach

Tolson
Belmont
Mohr
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Tele. Room
Holmes
Gandy

SUBJECT: INVITATION TO DIRECTOR TO SPEAK AT 1962 ANNUAL AMERICAN BAR ASSOCIATION MEETING, AUGUST 6 - 10, 1962 SAN FRANCISCO, CALIFORNIA

John Satterfield, President, American Bar Association (ABA), called at 11:00 a.m. today. He stated he was most anxious that the Director be one of the principal speakers before the ABA in San Francisco on a day at his convenience between August 6 - 10, 1962.

Mr. Satterfield mentioned that over 10,000 lawyers were expected to be present and that the meetings will be held in the Masonic Hall in San Francisco. He stated that the Director, if the invitation is accepted, will speak before the full assembly and there will be no committee meetings going on at that particular time. He told me that chances are very good for President Kennedy also to speak before the ABA and that an invitation is being issued to General Eisenhower to be a third principal speaker.

Mr. Satterfield stated that a formal letter of invitation was being sent to the Director within the next several days.

ACTION:

None until the letter is received.

1 - Mr. Malone
1 - H. L. Edwards
1 - Miss Holmes
1 - Mr. Jones

CDD:sak
(6)

REC-116 94-1-369-1705

11 MAR 9 1962

CRIME RESEARCH

MAR 21 1962

NOTED

March 13, 1962

94-1-367-1706

REC-3

The Most Reverend Bishop Philip M. Hannan
Chancellor
Archdiocese of Washington
1721 Rhode Island Avenue, Northwest
Washington 6, D. C.

Dear Bishop Hannan:

Thank you for your cordial letter of March 8th. It was most reassuring to receive your very gracious comments, and I want you to know how much I appreciate your thoughtfulness in writing as you did.

Sincerely yours,

J. Edgar Hoover

MAR 13 3 05 PM '62
REC'D-READING ROOM
F B I

MAR 1 6 1962

NOTE: Correspondent is on the Special Correspondents' List.

Mr. Tolson
Mr. Belmont
Mr. Mohr
Mr. Callahan
Mr. Conrad
Mr. DeLoach
Mr. Evans
Mr. Malone
Mr. Rosen
Mr. Sullivan
Mr. Tavel
Mr. Trotter
Tele. Room
Miss Holmes
Miss Gandy

JH:pjt
(3)

62 MAR 26 1962

ARCHDIOCESE OF WASHINGTON
CHANCERY OFFICE
1721 RHODE ISLAND AVE., N. W.
WASHINGTON 6, D. C.

Mr. Tolson
Mr. Belmont
Mr. Mohr
Mr. Callahan
Mr. Conrad
Mr. DeLoach
Mr. Evans
Mr. Malone
Mr. Rosen
Mr. Sullivan
Mr. Tavel
Mr. Trotter
Tele. Room
Miss Holmes
Miss Gandy

March 8, 1962

AMERICAN BAR ASSOCIATION

The Honorable J. Edgar Hoover
Director
The Federal Bureau of Investigation
Washington 25, D.C.

Dear Mr. Hoover:

I have recently received a copy of your address, "Shall It Be Law or Tyranny?", and I wish to express my heartiest congratulations upon your excellent address. I wish also to take this opportunity to express again my admiration of your unremitting zeal for the welfare not only of our country but of the freedom of all peoples in the West. I think that all Western Civilization is deeply in your debt.

With cordial best wishes, I remain

Sincerely yours,

Philip M Hannan

Most Reverend Philip M. Hannan

PMH/m

REC-3 94-1-369-1706

5 MAR 16 1962

EX-113

ack 3-13-62
one J. Hilton

32 EXP. PROC.

MAR 9 1962
PERS. REC. UNIT

A-972 (Rev. 2-19-60)
OPTIONAL FORM NO. 10

UNITED STATES GOVERNMENT

Memorandum

TO : The Director

DATE: March 8, 1962

FROM : N. P. Callahan

SUBJECT: The Congressional Record

Bar Association - National

Atlanta, Ga.

Page A1932. Congressman Multer, (D) New York, extended his remarks to include an article written by Ralph McGill, publisher of the Atlanta Constitution, entitled "Great Opportunity for the South" which was published in the Washington Star of March 4, 1962. Mr. Multer pointed out that the article called "upon the bar associations in the South to tell the people of that region the truth about Supreme Court decisions." The article stated "In all the South only one local bar association (that of Atlanta) has given the people the basic information that a Supreme Court ruling is binding on all courts, Federal and State. The extremists perhaps have done more than Communists to weaken faith in our judicial system. - - - In Ohio after State we have seen the extremists--with the bar association silent--seek to destroy confidence in the FBI, local and State police, and the courts. In some States the political leadership actually has advised the people not to talk with the FBI. Juries have been intimidated against bringing in a true and proper verdict. - - - Bar associations could be helpful if they would educate the people of their several States rather than permit deceivers to destroy faith in our American principles."

Original filed in: 62-104067

REC-71 94-1-369-1707

NOT RECORDED
47 MAR 23 1962

EX 113

In the original of a memorandum captioned and dated as above, the Congressional Record for March 7, 1962 was reviewed and pertinent items were marked for the Director's attention. This form has been prepared in order that portions of a copy of the original memorandum may be clipped, mounted, and placed in appropriate Bureau case or subject matter files.

60 MAR 29 1962

AMERICAN BAR ASSOCIATION

OFFICE OF THE PRESIDENT
JOHN C. SATTERFIELD
AMERICAN BAR CENTER
CHICAGO 37, ILLINOIS
HYDE PARK 3-0533

MISSISSIPPI OFFICE
P. O. BOX 466
YAZOO CITY, MISSISSIPPI
TELEPHONE 2550

March 10, 1962

Honorable J. Edgar Hoover
Director, Federal Bureau of Investigation
Washington 25, D. C.

EXP PROC
33 MAR 12 1962

Dear Mr. Hoover:

As you know, the American Bar Association is setting up a series of seminars throughout the United States which are being co-sponsored by the state and local Bar Associations in cooperation with local Chambers of Commerce, organizations in the field of education, and business and professional groups.

One such seminar is being held at Corpus Christi, Texas on April 21st and I have been discussing plans with [redacted] President of the American Judicature Society, former President of the State Bar of Texas and resident of Corpus Christi, and Hayden Head, Chairman of the local committee. An excellent panel is being arranged including Rear Admiral William C. Mott, [redacted] formerly of the Richardson Foundation, and [redacted] b6 b7C

In order for the seminar, which will be held for an entire day including luncheon and dinner, to have widespread public appeal, the local committee feels that it would be necessary to have one of the top men of the Federal Bureau of Investigation on the program and [redacted] Committee on Communist Tactics, Strategy and Objectives, and I agree with the local committee. b6 b7C

Mr. Deloach spoke at St. Louis and we understand that he has been contacted and will not be available on April 21st, the date of the Corpus Christi seminar.

I am familiar with the fact that the press of duties is preventing Mr. Sullivan from accepting numerous engagements, however, in view of the importance of this seminar as a part of the series sponsored by the American Bar Association, I am writing to ask whether it would be possible for Mr. William C. Sullivan to speak at Corpus Christi. The American Bar Association and the local committee would particularly appreciate his participation.

If this should prove impossible, we believe the seminar could be successfully held if one of the top men on your staff who is also a good speaker (such as [redacted] b6 b7C

REC-15 94-1-369-1708

25 MAR 27 1962

CORRESPONDENCE

NOTED

should be made available to us.

If it is convenient, I would greatly appreciate your telegraphing me at Yazoo City, Mississippi, and [redacted] Head and Lyle, Attorneys, Wilson Tower, Corpus Christi, Texas, as soon as a determination is made. b6 b7C

We greatly appreciate your personal cooperation and the cooperation of Mr. Deloach, Mr. Sullivan, Inspector Lynn Edwards, and other members of your staff who have contributed materially to our program.

Sincerely yours,

John C. Satterfield
President

JCS:bm

Mr. Tolson
Mr. Edmonds
Mr. Mohr
Mr. Callahan
Mr. Conrad
Mr. DeLoach
Mr. Evans
Mr. Malone
Mr. Rosen
Mr. Sullivan
Mr. Tavel
Mr. Trotter
Tele. Room
Miss Holmes
Miss Gandy

3-13-62

PLAIN TEXT

TELEGRAM URGENT

REC-15 94-1-369-1708

FEDERAL BUREAU OF INVESTIGATION
U. S. DEPARTMENT OF JUSTICE
COMMUNICATIONS SECTION
MAR 14 1962

WESTERN UNION

HONORABLE JOHN C. SATTERFIELD
PRESIDENT
AMERICAN BAR ASSOCIATION
SATTERFIELD, SHELL, WILLIAMS AND BUFORD
MASONIC BUILDING
YAZOO CITY, MISSISSIPPI

EX-114

YOUR LETTER OF MARCH TEN LAST REQUESTING SPEAKER FOR APRIL TWENTY ONE, CORPUS CHRISTI, TEXAS, SEMINAR RECEIVED. WHILE I APPRECIATE YOUR KIND COMMENTS REGARDING MY ASSOCIATES AND ME AND WOULD LIKE TO BE OF ASSISTANCE, OUR SPEAKERS ON COMMUNISM HAVE PRIOR COMMITMENTS DURING THIS PERIOD. REGRET WE HAVE NO ONE AVAILABLE FOR THIS PROGRAM AND HOPE YOU WILL UNDERSTAND SITUATION. [redacted] IS BEING ADVISED.

JOHN EDGAR HOOVER, DIRECTOR
FEDERAL BUREAU OF INVESTIGATION

INITIATED
DIRECTOR'S OFFICE

ELC:TMF
(9)

b6
b7C

MAR 13 5 38 PM '62
FBI
REC'D-READING ROOM

1 - Mr. DeLoach (sent with cover memo)
1 - Mr. Belmont (sent with cover memo)
1 - Mr. Sullivan (sent with cover memo)
1 - Mr. Edwards (sent with cover memo)

Tolson
Belmont
Mohr
Callahan
Conrad
DeLoach
Evans
Malone
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Holmes
Gandy

NOTE: See Jones to DeLoach memo of 3-13-62 captioned "American Bar Association; Anticommunist Seminars, Committee on Communist Strategy and Tactics, Corpus Christi, Texas, April 21, 1962." Address per telephone directory. Address on incoming and on mailing list not used as it is a post office box.

COMM-FBI
MAR 30 1962

ELC:tmf (9)

MAIL ROOM ☐ TELETYPE UNIT ☐

NOTED

FEDERAL BUREAU OF INVESTIGATION
U. S. DEPARTMENT OF JUSTICE
COMMUNICATIONS SECTION
MAR 14 1962

WESTERN UNION

W BIA014 XV GOVT PD

WUX BI WASHINGTON DC 14 1031AME

HONORABLE JOHN C SATTERFIELD

PRESIDENT AMERICAN BAR ASSOCIATION SATTERFIELD SHELL WILLIAMS

AND BUFORD MASONIC BUILDING

YAZOO CITY MISSISSIPPI

YOUR LETTER OF MARCH TEN LAST REQUESTING SPEAKER FOR APRIL TWENTY ONE CORPUS CHRISTI, TEXAS, SEMINAR RECEIVED. WHILE I APPRECIATE YOUR KIND COMMENTS REGARDING MY ASSOCIATES AND ME AND WOULD LIKE TO BE OF ASSISTANCE, OUR SPEAKERS ON COMMUNISM HAVE PRIOR COMMITMENTS DURING THIS PERIOD. I REGRET WE HAVE NO ONE AVAILABLE FOR THIS PROGRAM AND HOPE YOU WILL UNDERSTAND SITUATION. [redacted] IS BEING ADVISED.

b6
b7C

JOHN EDGAR HOOVER, DIRECTOR

FEDERAL BUREAU OF INVESTIGATION.

OPTIONAL FORM NO. 10

UNITED STATES GOVERNMENT

Memorandum

Tolson
Belmont
Mohr
Callahan
Conrad
DeLoach
Evans
Malone
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Holmes
Gandy

TO : Mr. DeLoach

DATE: 3-13-62

FROM : M. A. Jones

SUBJECT: AMERICAN BAR ASSOCIATION (ABA)
ANTICOMMUNIST SEMINARS
COMMITTEE ON COMMUNIST STRATEGY
AND TACTICS
CORPUS CHRISTI, TEXAS
APRIL 21, 1962

By letter dated 3-10-62, John C. Satterfield, President, ABA, advised that the ABA is setting up a series of seminars throughout the United States which are being co-sponsored by state and local bar associations in cooperation with local Chambers of Commerce and other groups. A seminar is being held at Corpus Christi, Texas, on April 21, 1962, and he points out that included in the panel they are arranging will be Rear Admiral William C. Mott; [redacted] formerly of the Richardson Foundation; and [redacted] The seminar will be held for an entire day and they feel that it would be necessary to have one of the top men of the FBI on the program. Satterfield mentions that you have been contacted and were not available on April 21 for the Corpus Christi Seminar. He requests that Assistant Director Sullivan be designated or, if this is not possible, someone of the top men on the Director's staff who is a good speaker, such as [redacted] (SA [redacted] Central Research Section, Domestic Intelligence Division). Satterfield requests that this reply be telegraphed to him at Yazoo City, Mississippi, and also that [redacted] Attorneys, Wilson Tower, Corpus Christi, Texas, be advised similarly. He expresses appreciation for the cooperation of the Director, Mr. DeLoach, Mr. Sullivan, Inspector Edwards, and others who have contributed to their program.

b6
b7C

With regard to this matter, your memo to Mr. Mohr of 3-5-62 pointed out that [redacted] had asked you to make this talk and it was recommended and approved by the Director that [redacted] and Rear Admiral Mott be advised that your commitments in Washington prevented acceptance of the invitation. You pointed out in your memo that we have already accommodated this group on a number of occasions and although the ABA is very cooperative, we should not be expected to accommodate them in every instance. You also pointed out that it would be very bad to make this type speech in Houston, Texas [redacted] apparently had Houston in mind when he called instead of Corpus Christi, where the seminar is to be held), which is a hotbed of right-wing radicalism, where following the talk, there would be a 45-minute question

b6
b7C
b7D

1 - Mr. DeLoach
1 - Mr. Belmont
1 - Mr. Sullivan
1 - Mr. Edwards

Enclosures (2)

ELC:tmf (8)

62-1-369-1709
13 MAR 27 1962

sent 3-14-62

REC-15

NOTED

53 APR 2 1962

and answer period. As you pointed out, you were perfectly willing to take on any group in a question and answer period, but from a public relations standpoint, we could not win this one. The right-wingers would be expecting us to go much further in our statements than we either logically or factually could do, and as a result, bad feelings would be engendered.

It is also felt that the foregoing reason regarding right-wing radicalism in Texas would apply to Corpus Christi as well as Houston, and therefore it is felt that we should decline this invitation on the basis that we have no Bureau speakers who could talk on communism available during the pertinent period due to prior commitments.

Satterfield is on the Special Correspondents' List, and we have exchanged limited cordial correspondence with [redacted] Head wrote the Director on two occasions in March, 1961, regarding the film, "Operation Abolition," which film his group was showing in the Corpus Christi area.

b6
b7C

RECOMMENDATION:

That the attached telegrams be sent to Satterfield and [redacted] advising there are no Bureau speakers available during the pertinent period due to prior commitments.

I Agree 8/13

OK. JK

OPTIONAL FORM NO. 10

UNITED STATES GOVERNMENT

Memorandum

Tolson
Belmont
Mohr
Callahan
Conrad
DeLoach
Evans
Malone
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Holmes
Gandy

TO : Mr. Malone

DATE: March 23, 1962

FROM : H. L. Edwards

SUBJECT: CRIMINAL LAW SECTION
AMERICAN BAR ASSOCIATION

For your information, attached is a brochure which I made up for the Criminal Law Section of the American Bar Association. It was printed by the printing plant of the American Bar Center in Chicago but the format and color scheme were suggested by us, and in this connection I had the valuable help of [redacted] in the Exhibits Section. b6 b7C

This brochure will be widely distributed by the American Bar Association in an effort to generate interest in and additional membership in the section of Criminal Law.

It will be noted that there is a good deal of emphasis in the text for restoring a proper balance between individual and social rights; focusing attention on the alarming and rising crime rate. The Director's annual crime cost estimate is utilized and youthful criminality is cited as a major problem. At the last meeting of the Criminal Law Section Council, of which I am a member, I pointed out that I felt it is high time we start stressing the rights of society in balance against the rights of the individual and, surprisingly, a number of members of the council agreed with this and felt that this would be a way of getting more people interested in the Criminal Law Section.

ACTION:

Information.

Enclosure
1 - Mr. DeLoach (Encl.)
1 - Mr. Gauthier (Encl.)
HLE:hcv
(4)

ENCLOSURE ATTACHED

REC-14 94-1-369-1710

10 MAR 28 1962

ENCLOSURE

58 APR 3 1962

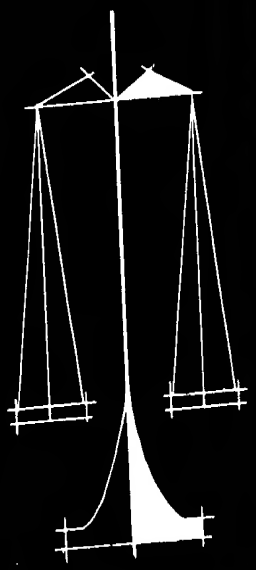
94-1-369-1710

ENCLOSURE

American Bar Association
Criminal Law Section

not interested in criminal law?....

LET'S LOOK at the FACTS!



(Brochure)

Crime is every lawyer's concern. The nation's crime rate is at an all-time high and still soaring. Best estimates show crime costs more than 22 billion dollars a year ($128 for every man, woman, and child). Though basically local in nature, Crime is organized as never before. Youthful criminality is also a major problem threatening our national future. Crime corruption breeds and spreads in an atmosphere of civic apathy. Lawyer leadership is urgently needed. Lawyers must know the way, go the way, show the way to make the crooked way straight.

Restore a proper balance between individual and social rights. The Bill of Rights guaranteed by our Constitution must be preserved – but liberty needs law; freedom is founded on self-discipline. The watchdog of civil liberties is the criminal law.

Ideas exchanged, explored, developed; ignorance dispelled through interesting and informal programs; influence generated and guided for needed legislation and improved law enforcement.

Medium for motivating an aroused, enlightened public opinion for strengthening America's moral fiber.

Individual and group interests reconciled, coordinated and channeled toward better administration of criminal justice.

National security and growth directly dependent on criminal laws responsive to public needs; respected, fair and vigorous enforcement; balanced judicial administration; complemented by a realistic system of sentencing and rehabilitation.

America looks to all its lawyers to set an example of civic knowledge, understanding and wise support of respect for law and lawful conduct.

Lawyers, law students, law teachers, and law schools will find Criminal Law the lifeblood and guardian of our cherished freedoms.

Live the rule of law by showing genuine concern and actively participating in your ABA Criminal Law Section.

Alert and activate your fellow lawyers to go and do likewise.

Wield your professional influence and direct your talents toward a Criminal Law Section worthy of its great heritage.

GOALS OF THE CRIMINAL LAW SECTION

I. ULTIMATE GOALS

1. *Contribute to the maintenance of individual and collective order within the community at all times.*
2. *Protect the community against offenses to persons and property at all times.*
3. *Protect the health and morals of the community and its members.*
4. *Provide practical checks and balances to assure protection of the rights of individuals and prevent abuse of powers.*
5. *Promote the confidence of the police, the courts, the bar and the general public in the over-all fairness of the system.*
6. *Set an example of efficient and enlightened disposition of criminal charges within the framework of American legal principles.*
7. *Provide for rapid development of facts followed by prompt and speedy judicial action when an offense is committed.*
8. *Use of minimum sanction consistent with correction and deterrence in dealing with offenders.*
9. *Provide opportunity for rehabilitation for future useful life in the community for those convicted of crime.*

II. SUPPORTING GOALS

1. *Community guidance and leadership which prevent the commission of offenses.*
2. *Full use of mental health facilities, employment assistance and opportunity for religious guidance.*
3. *Early identification and treatment of those who because of inherent or ingrained defect will most likely require future treatment.*
4. *Sufficient flexibility to effectively administer offenders with varying ages, abilities, backgrounds and criminal records.*
5. *Careful selection and training of those entrusted with police duties, judicial powers and rehabilitation activities.*
6. *Increase the respect for the law and those persons engaged in the trial of criminal cases.*

III. INTERMEDIATE GOALS

1. *To determine means for expediting the criminal process, including pre-trial, trial and appeal without sacrificing rights of accused persons or the public and urge their adoption.*
2. *To determine the causes of juvenile delinquency and support programs designed to eradicate the causes and reduce the rate of juvenile delinquency.*
3. *To reveal the organization of crime, recommend means to eradicate it, generate public interest in its eradication, and support and encourage those engaged in opposing organized crime.*
4. *To determine the role of Federal and State Governments in the Field of law enforcement and the administration of criminal justice.*
5. *To urge the formation of appropriate body or foundation to conduct a research project the end of which would be the restatement of the law regarding 1. arrest and detention 2. searches and seizures.*
6. *To improve the administration of criminal justice by improving the quality and the support of the person charged as the public's prosecuting representative.*

*COMMITTEES OF THE SECTION

____ Appellate Delay in Criminal Cases
____ Aviation Criminal Law
____ Capital Punishment
____ Crime Portrayal in Public Media
____ Defense of Indigent Persons
____ Defense Problems
____ International Criminal Law
____ Legislation
____ Membership
____ Narcotics and Alcohol
____ Organized Crime
____ Police Training and Administration
____ Pre-trial Problems in Criminal Cases
____ Probation and Parole
____ Prosecution Problems
____ Rights of Accused Persons
____ Scope and Program
____ Sentences
____ The Grand Jury
____ Traffic and Magistrate Courts

** Please check the committees in which you are interested.*

If you are already a member of the Criminal Law Section, please pass this on to a fellow lawyer who might be interested in membership.

Application of* _____

(Please print or type name)

_____

Number *Street* *Zone* *City* *State*

_____

Signature *Date*

(Check for $2.00 for Section annual dues payable to American Bar Association should be mailed with this application to Director of Section Services, American Bar Association, 1155 East 60th Street, Chicago 37, Illinois.)

MEMBERSHIP IN THE AMERICAN BAR ASSOCIATION IS A PREREQUISITE OF SECTION MEMBERSHIP.

My interest in criminal law is as (please check one): *Judge*___ *Lawyer engaged in prosecution* ___

*Lawyer engaged in defense*___ *General practitioner*___ *Lawyer in government service* ___

*Teacher of criminal law*___ *Other*_____ * *Please complete reverse side.*

(Specify)

Knowing the Enemy

The American Bar Association is disturbed by the failure of many Americans to understand the true nature of Communism.

This powerful professional group believes, in effect, that the best preparation for resisting or overcoming an enemy is to have a thorough knowledge of his objectives and techniques.

It sees a lack of effort toward providing this sort of education in American high schools and colleges, although it notes heartening evidence of recent progress.

Acting on this belief, the ABA has outlined a program to encourage classroom instruction on the Communist threat. Its efforts are taking shape in the publication of a handbook to guide state and local bar associations which seeks to encourage school officials to establish courses in Communism.

We believe the ABA has begun an admirable course of action. There still seem to be many people who regard Communism as a somewhat shadowy enemy. Unfortunately, they do not have enough knowledge of the facts to give real substance to the shadow.

As the ABA points out in the handbook: "The real need is for widespread knowledge in some depth of the history, objectives and techniques of the Communist movement. There is also a need for a more thorough understanding of our own system of constitutional government and freedom under law. This kind of understanding will be facilitated by the contrast with the Communist system."

The ABA viewpoint, with which we thoroughly agree, is that given the facts there is no doubt what the choice of the student would be between the two systems of government. The logical place to present these facts is in high school and college courses.

It is not intended that the ABA program will be a pressure program. It is simply to lay the groundwork and let the decision remain the responsibility of school officials.

We hope that the program will lead to better opportunities for our young men and women to know the true nature of their country's enemy. If it does, then the ABA has made a great contribution to America's strength.

Mr. Tolson
Mr. Belmont
Mr. Mohr
Mr. Callahan
Mr. Conrad
Mr. Evans
Mr. Malone
Mr. Rosen
Mr. Sullivan
Mr. Tavel
Mr. Trotter
Tele. Room
Miss Holmes
Miss Gandy

The Indianapolis News
Date March 29, 1962
Edition
City & State Indianapolis, Indiana
Author
Managing Editor Eugene Pulliam, Jr
Title
Character
Submitting Office Indianapolis
IP File
Bufile

NOT RECORDED
199 APR 6 1962

20 APR 3 1962

FEDERAL BUREAU OF INVESTIGATION
FOIPA
DELETED PAGE INFORMATION SHEET

No Duplication Fees are charged for Deleted Page Information Sheet(s).

Total Deleted Page(s) ~ 5
Page 46 ~ Duplicate Section 36, PG 54-55
Page 47 ~ Duplicate Section 36, PG 54-55
Page 48 ~ Duplicate Section 36, PG 65-67
Page 49 ~ Duplicate Section 36, PG 65-67
Page 50 ~ Duplicate Section 36, PG 65-67